

22.08.2024
Item no. 82.
Court No.28.
AB
(Allowed)

CRM (DB) 2608 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure in connection with Amdanga Police Station Case No.382 of 2023 Dated 3.7.2023 under Sections 376(2)(f) of the Indian Penal Code read with Section 6 of the POCSO Act

And

In the matter of : Dipayan Majumder Petitioner.

Mr. Saryati Dutta,
Mr. Sanjib Kr. Dan,
Mr. Chitrak Biswas for the Petitioner.

Ms. Rituparna De Ghosh,
Ms. Pinky Sarkar for the State.

Dictated by Arijit Banerjee, J.

1. Affidavit of service filed in Court today, be kept with the records. In spite of service, nobody appears for the defacto complainant/victim.
2. The petitioner says that he has been falsely implicated in this case. The victim girl is his cousin. He could never do anything indecent to her. He is in custody for almost one year and two months. Investigation is complete. Charge sheet was submitted in August, 2023. Charge was framed in December, 2023. Till date, not a single witness out of 23 charge sheet named witnesses has been examined. He prays for bail on the ground of delay in progress of the trial.

3. Opposing the prayer for bail, learned Advocate for the State draws our attention to the statement of the victim girl recorded under Section 164 Cr.P.C. as also the medical report.
4. The status report filed on behalf of the State, be kept with the records.
5. We are not inclined to make any comment on the merits of the case. The prosecution may have a very good case against the petitioner. However, we do see that there is inordinate delay in progress of the trial. Even after charge was framed in December, 2023, not a single witness has been examined. There are 23 witnesses named in the charge sheet. Learned Advocate for the State tells us that 20 witnesses are proposed to be examined by the prosecution. We see no possibility of an early conclusion of the trial. The petitioner cannot be kept in custody for ever.
6. Solely on the ground of delay in progress of the trial, we allow the petitioner's prayer for bail.
7. Accordingly, we direct that the petitioner, namely **Dipayan Majumder** shall be released on bail upon furnishing a bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the POCSO Act at Barasat, North 24 Parganas, and on further conditions that he shall not leave the

jurisdiction of the concerned police station and shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders.

8. The petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence and/or commit any cognizable offence in any manner whatsoever.
9. In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.
10. The application for bail is, accordingly, allowed.
11. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)

