

06.09.2024
Item no. 70.
Court No.28.
AB
(Allowed)

CRM (DB) 2757 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure, 1973/Under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Habra Police Station Case No.757 of 2021 Dated 17.10.2021 under Section 363/365/376(3) of the Indian Penal Code read with Section 4 of the POCSO Act

And

In the matter of : Sanjib Kumar Petitioner.

Mr. Anshuman Chakraborty
Mr. S. S. Saha for the Petitioner.

Mr. Antarikhya Basu
Mr. Bikram Mitra for the State.

Dictated by Arijit Banerjee, J.

1. From the service report filed by the State today in Court, it appears that the defacto complainant, being the mother of the victim girl, has expired. The father of the victim girl refused to accept service. Let the service report be kept with the records.
2. The petitioner says that he is in custody for about three years. Only 3 out of 23 witnesses have been examined. All vulnerable witnesses have been examined before the learned Trial Court. There is no possibility of an early conclusion of the trial. He prays for bail.
3. Learned Advocate for the State, while opposing the prayer for bail, draws our attention to the material in the case diary.

4. There may be some incriminating material against the petitioner but that is a question of merits. The fundamental right of a citizen to personal liberty and speedy trial can hardly be overemphasized. The petitioner is in judicial custody for a long time. We see no possibility of the trial concluding at an early date. We find that on the last 19 occasions spread over 5 schedules, the prosecution witnesses did not turn up.
5. Solely on the ground of delay in trial, we allow this application.
6. Accordingly, we direct that the petitioner, namely **Sanjib Kumar** 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 enter the jurisdiction of Habra Police Station except for attending the court proceedings and shall provide the address where he shall presently reside to the Officer in Charge of the concerned police station and shall meet the Officer in Charge of the concerned police station within whose jurisdiction he shall presently reside once in a fortnight until further orders.
7. 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.

8. 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.
9. The application for bail is, accordingly, allowed.
10. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Arijit Banerjee, J.)

(Prasenjit Biswas, J.)