

25.09.2024
Item no.35.
Court No.28.
S. De
(Allowed)

CRM (DB) No. 2913 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with **Airport Police Station Case No. 174 of 2018** dated **12.09.2018** under **Sections 363** of the Indian Penal Code and **Sections 4/8/12** of the Protection of Children from Sexual Offences Act (POSCO), 2012 and charges framed under **Sections 363/366/368/376(3)** of the Indian Penal Code, and under **Sections 6** of the POCSO Act.

And

In the matter of : Himadri Saha.

.....Petitioner.

Mr. Niladri Sekhar Ghosh,
Mr. Sourav Mondal,
Ms. Laboni Sikdar,
Mr. Rony Mondal,for the Petitioner.

Mrs. Rituparna Ghosh,
Ms. Trisha Rakshit,for the State.

Dictated by Arijit Banerjee, J.

1. From the affidavit-of-service that is on record, it appears that the de facto complainant has received notice of this application. However, nobody appears for the de facto complainant.
 2. The report filed by the State be kept with the records.
 3. The report is primarily to the effect that the delay in progress of the trial is due to the Covid Pandemic.
 4. The petitioner is in custody for over six years now.
- Witness action has not yet begun.

5. We have seen the FSL report. The examination report of the petitioner's semen does not match with the vaginal swab of the victim.
6. On an overall consideration of the facts and circumstances of the case and primarily on the ground of inordinate and unexplained delay in progress of the trial, we allow the petitioner's prayer for bail.
7. Accordingly, we direct that the petitioner, namely, **Himadri Saha** 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 POCSO Act), North 24 Parganas at Barrackpore, 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 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.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)