

04.10.2024
Item no. 50.
Court No.28.
AB
(Allowed)

CRM (DB) 3058 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 Barasat Police Station Case No.510 of 2020 Dated 10.10.2020 under Sections 376(2)(f)/109 of the Indian Penal Code read with Section 6 of the POCSO Act

And

In the matter of : Bipul Chandra Biswas @ Bipul Biswas

.....Petitioner.

Mr. Debasis Kar,
Ms. Jagri Mitrafor the Petitioner.

Ms. Z. N. Khan
Ms. Madhumita Basakfor the State.

Dictated by Apurba Sinha Ray, J.

1. Report filed on behalf of the State, be kept with the records.
2. Learned Counsel for the petitioner has submitted that the petitioner is in custody for about four years and out of 19 charge sheet named witnesses, only 4 witnesses have been examined so far and that too, in part. There is no chance of an early conclusion of the trial. Further, a co-accused person has been enlarged on bail by this Court. Hence, considering his long detention, the petitioner may be enlarged on bail on any condition.
3. Learned Advocate for the State opposes the prayer for bail. According to her, there are sufficient incriminating materials against the petitioner. Even the victim girl has

implicated him in her deposition. Due to COVID pandemic, the case could not be proceeded with speedily. However, if a timeframe is given, the prosecution would certainly conclude the trial within that time period.

4. We have considered the materials on record. We find that there are incriminating materials against the petitioner. However, as the petitioner is in custody for about four years, we think that he can certainly claim that his fundamental right under Article 21 of the Constitution of India is being violated for non completion of the trial within a reasonable period.
5. After going through the materials on record, we find that the petitioner is in custody for a considerable period of time and the prosecution was unable to conclude the trial within a reasonable period of time though it is correct that the petitioner has deferred the cross examination of the relevant witnesses by filing petitions under Section 231 Cr.P.C. It is true that the accused has been given a right to defer the cross examination of the witnesses in certain circumstances. However, considering the period of custodial detention of the present petitioner, we are inclined to allow his prayer for bail.
6. Accordingly, we direct that the petitioner, namely, **Bipul Chandra Biswas @ Bipul Biswas** 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 Barasat 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 week 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.)

(Apurba Sinha Ray, J.)

