

05. 19.11.2024
Court
No.29 (Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 3354 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 / Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, arising out of **Dhantala** Police Station Case No. **124/2022** dated **13.03.2022** under Sections **363/365** of the Indian Penal Code, 1860 and adding Section **6** of POCSO Act, 2012.

And

In the matter of: - **X X X X X X**

...petitioner.

Mr. Imtiaz Ahmed
Mrs. Ghazala Firdaus
Mr. Mofakkerul Islam
Mr. Sk. Saidullah
Mr. Debopam Roy
Mr. Mithun Mondal
Mr. Md. Arsalan

...for the petitioner.

Mr. Parthapratin Das
Mr. Atanu Ghosh

...for 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 *de facto* complainant/victim.
2. The petitioner renews his prayer for bail which was rejected firstly on August 26, 2022, in CRM (DB) 2872 of 2022 and then on January 15, 2024, in CRM (DB) 113 of 2024. At the time of the second rejection, the co-ordinate Bench had recorded that the examination of the victim was in progress and at that stage the Bench did not wish to entertain the application for bail.

3. The petitioner says that he is in custody for about two years and nine months. All vulnerable witnesses have been examined. The victim girl, in her deposition, has stated that a friendship had developed between her and the petitioner. He may be enlarged on bail.
4. While opposing the prayer for bail learned Advocate for the State says that seven out of 11 charge-sheet named witnesses have already been examined. It may be necessary to examine two more witnesses. The trial should conclude on an early date. There is sufficient incriminating evidence against the petitioner. If convicted, the petitioner may have to serve life sentence.
5. We have considered the rival contentions of the parties. The petitioner is in custody for a very long time period. Section 35(2) of the Protection of Children from Sexual Offence (POCSO) Act, 2012, contemplates that the Special Court shall complete the trial, as far as possible, within a period of one year from the date of taking cognizance of the offence. In this case cognizance of the offence was taken on April 30, 2022. Much more than one year has elapsed since then. Since all the vulnerable witnesses have been examined, we do not see any further necessity of detaining the petitioner in judicial custody. The prayer for bail is thus allowed.
6. Accordingly, we direct that the petitioner, namely, **XXXXXX** shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional District & Sessions

Judge, Ranaghat, Nadia, subject to condition that the petitioner shall appear before the Trial Court on each and every date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973 / Section 355 of Bharatiya Nagarik Suraksha Sanhita, 2023, and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever and on further condition that the petitioner, while on bail, shall not enter the territorial jurisdiction of Dhantala Police Station and shall not leave the territorial jurisdiction of Ranaghat Police Station and shall furnish his present address, where he will be residing, to the Officer-in-Charge/Inspector-in-Charge of Dhantala Police Station and shall also report to the Officer-in-Charge/Inspector-in-Charge of Ranaghat Police Station, once every fortnight, until further orders.

7. In the event the petitioner fails to adhere to any of the conditions stipulated above without any justifiable cause, the Trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.
8. The application for bail being CRM (DB) 3354 of 2024 is accordingly disposed of.
9. Criminal Section is directed to make available urgent photostat certified copies of this order to the parties, if applied for, upon compliance with all requisite formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)