

29.11.2024
Item no.46.
Court No.29.
S. De
(Allowed)

CRM (DB) No. 3333 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 **Taherpur Police Station Case No. 03 of 2020** dated **03.01.2020** under **Section 376AB/506(2)** of the Indian Penal Code and **Section 6/17** of the Protection of Children from Sexual Offences Act.

And

In the matter of : Raju Sarkar.

.....Petitioner.

Ms. Sananda Bhattacharyya,for the Petitioner.

Mr. Prasun Kr. Dutta,

Mr. Aninda Sundar Chatterjee,for the State

Dictated by Arijit Banerjee, J.

1. The petitioner renews his prayer for bail which was rejected thrice earlier, lastly on January 17, 2024. He says that he is in custody for 4 years and 11 months. Only 1 out of 11 chargesheet named witnesses has been examined. There is no possibility of an early conclusion of the trial. He prays for bail on the touchstone of Article 21 of the Constitution of India.
2. The State files a report. Let the same be kept with the records. The report is completely useless. It conveys nothing. One thing is clear that only one prosecution witness has been examined.
3. We cannot lose sight of the fundamental right of an undertrial to speedy justice and personal liberty. That right is

paramount and must override all other considerations. However, grave the alleged offence be and however strong a case the prosecution may have against an accused person, that person cannot be kept incarcerated for an indefinite period of time without taking the trial to its logical conclusion. Otherwise what will happen is pretrial conviction of the accused which is unknown to the criminal jurisprudence of this country. Without touching the merits of the case and solely on the ground of inordinate delay in trial and prolonged custodial detention of the petitioner, we feel constrained to allow the petitioner's prayer.

4. Accordingly, we direct that the petitioner, namely, **Raju Sarkar** 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), Ranaghat, Nadia, subject to the condition that the petitioner shall not leave the jurisdiction of the concerned police station and shall meet the Officer-in-Charge of the concerned police station once in every week until further orders.
5. 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.
6. 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.

7. The application for bail is, accordingly, allowed.
8. 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.)