

26.11.2024
Item no.58.
Court No.29.
S. De
(Allowed)

CRM (DB) No. 3475 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 **Kharagpur Town Police Station Case No. 431 of 2022** dated **20.07.2022** under **Sections 363/365** of the Indian Penal Code and **Section 6 of the Protection of Children from Sexual Offences Act, 2012.**

And

In the matter of : Bisu Nimkhai @ Sankar Nemai @ Nimkhai @ Bisu @ Raju @ Raj & Anr.

.....Petitioners.

Mr. Soumik Ganguli,
Ms. Sharmistha Das,for the Petitioner.

Mr. Debasish Roy, Ld. PP
Mr. Arijit Ganguly,
Mr. Koushik Kundu, ...for the State.

Dictated by Arijit Banerjee, J.

1. The petitioners complain of inordinate delay in progress of trial. They say that they are in judicial custody for almost 2 years. The trial has not begun in the sense that witness action has not begun. There are 19 chargesheet named witnesses. There is no possibility of an early conclusion of the trial. On the touchstone of Article 21 of the Constitution of India, they renew their prayer for bail.
2. Opposing the prayer, learned State counsel draws our attention to the material in the case diary

including the statement of the victim girl recorded under Section 164 Cr.P.C.

3. It cannot be said that there is no incriminating material at all against these petitioners. However, that is a question of merits. We see that the petitioners are in custody for a long period of time. Not a single witness has been examined. It is not possible to conclude the trial on an early date.
4. Without touching the merits of the case and solely on the ground of unexplained delay in progress of the trial, we feel constrained to grant bail to the petitioners but on stringent conditions.
5. Accordingly, we direct that the petitioner, namely, **Bisu Nimkhai @ Sankar Nemai @ Nimkhai @ Bisu @ Raju @ Raj** and **Bipin Nimkhai** shall be released on bail upon furnishing a bond of Rs.10,000/- each , 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), Paschim Medinipur and on further conditions that they shall not enter the jurisdiction of the Kharagpur Town Police Station except for the purpose of attending Court proceedings and shall also furnish the address where they will be residing to the Officer-in-Charge in whose jurisdiction they will be residing and shall

also appear before such Officer-in-Charge once in every week until further orders.

6. The petitioners 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.
7. In the event the petitioners fail to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioners' interim bail in accordance with law without further reference to this court.
8. The application for bail is, accordingly, allowed.
9. 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.)