

05.02.2024

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Allowed

C.R.M. (DB) No. 4806 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Matia Police Station Case No. 98 of 2022 dated 25.03.2022 under Sections 363/365/120B/109/326/307/376AB of the Indian Penal Code read with Sections 4/6/17 of the POCSO Act.

And

In Re : Rojina Bibi petitioner

Mr. S. Purkayastha

Mr. J. Bhattacharya

.....for the petitioner

Mr. Debasish Roy, learned PP

Mr. Madhusudan Sur, learned APP

Mr. Rup Sarkar

.....for the State

1. Learned Counsel for the petitioner submits she is in custody for over a year. It is also submitted that she is not the principal accused. There is no possibility of trial concluding in the near future. Accordingly, she prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits report. Let the report be kept with record. It is submitted petitioner played a role in handling over the minor to the principal accused who raped her. Eight witnesses have already been examined.

3. We have considered the materials on record. Petitioner is not the principal accused. Neither minor nor her relations have implicated the petitioner in the crime. P.W. 8, a neighbour stated that she had seen the petitioner talk to the principal accused and the victim prior to the incident. A motor cycle was

standing near the spot. It is to be assessed during trial whether the aforesaid circumstance is sufficient to implicate the petitioner in the conspiracy to commit the crime in question. Prosecution proposes to examine a large number of witnesses. There is no possibility of trial concluding in the near future. Keeping in mind the extent of complicity of the petitioner in the crime and the period of detention suffered by her we are of the opinion petitioner may be released on bail subject to conditions.

4. Accordingly, we direct that the petitioner 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, Basirhat, 24-Parganas (N) on further condition that petitioner while on bail shall not enter the jurisdiction of Matia Police Station until examination of all vulnerable witnesses and shall provide address where she shall presently reside to the investigating officer and learned court below and she shall report to the Officer-in-Charge of the concerned police station once in a week until further orders. Petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

5. In the event petitioner fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel her bail in accordance with law without further reference to this Court.

6. The application for bail is, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)