

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

05.03.2024
Court No.1
Item. 21
(Suvendu)

CRM(DB) 45 OF 2024

In Re: An application for Bail under Section 439 of the Code of Criminal Procedure, 1973 filed in connection with NJP Police Station Case No. 728/2020 dated 29.06.2020 under Section 6 of the POCSO Act corresponding to POCSO Session Case No. 59/2020 pending before the learned Judge, Special Court (under POCSO Act) 2nd Court, Jalpaiguri.

And

In the matter of: Md. Sattarul Haque @ Hossain
.....Petitioner.

Mr. Prajnadeepta Roy
Ms. Sohini Kundu
Mr. Naser Ali

For the Petitioner.

Mr. Ujjwal Luksom
Mr. Sourav Ganguly

For the State.

1. The victim has been in custody for 1345 days and it is undisputed that the charges were framed 2 years after submitting the charge-sheet. However, the charge-sheet was initially submitted without any kind of DNA profile. We also note that after framing of charges on 15th September, 2022, there has been little progress in the trial. Only 1 out of 10 witnesses has been examined so far and the orders annexed to the application also show that the delay in the trial is substantially caused by the non-cooperation of the victim girl. The victim girl has not been appearing in the trial for the last 8 months.
2. We are hence of the view that the petitioner cannot be kept in custody indefinitely when there is admittedly very little progress in the trial. The absence of the victim girl makes it impossible for the trial to be concluded in the near future.

3. We are hence inclined to grant the prayer for bail.
4. We accordingly direct that the petitioner shall be released on bail upon furnishing a bond of Rs. 10,000/- (Rupees ten thousand only) with two sureties of like amount each, one of who must be local, to the satisfaction of the learned Judge, Special Court (under POCSO Act) 2nd Court, Jalpaiguri. The petitioner shall not induce witnesses or influence them or tamper with the evidence. The petitioner shall also not enter the adjoining neighborhood where the victim girl resides subject to further orders passed by the Special Court.
5. CRM(DB) 45 of 2024 is accordingly allowed and disposed of in terms of the above.

(PRASENJIT BISWAS, J.)

(MOUSHUMI BHATTACHARYA, J.)