

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

10.04.2024

Court No.01
rpan /11

C.R.M. (DB) 67 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure;

And

In Re.: Bhabananda Roy

- Petitioner

Mr. Hillol Saha Podder,
Ms. Moushumi Das
... for the petitioner.

Mr. Saikat Chatterjee,
Mr. Chattu Roy
... for the State.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Phansidewa Police Station Case No. 258 of 2023 dated 10.08.2023 under Section 376 of the Indian Penal Code.

Mr. Saha Podder, learned advocate appearing for the petitioner submits that the petitioner is an aged person of 64 years and is languishing in custody since 10th August, 2023. It has been alleged that the victim girl is mentally disabled. However, no steps were taken for recording the statement of the victim girl and the authorities failed to discharge their obligation under Section 164(5A) of the Code.

He further submits that upon completion of investigation chargesheet has already been submitted and that as such, further detention of the petitioner may not be necessary and he may be enlarged on bail on any stringent condition.

Mr. Chatterjee, learned advocate appearing for the State, however, vehemently opposes the petitioner's prayer and submits that the victim girl is mentally disabled and after medical examination conducted on 24th August, 2023, she had to be shifted to the mental asylum at Berhampore on 26th August, 2023. Thereafter a medical board was constituted and the victim girl was examined. In the midst thereof, the victim girl has also given birth to a baby.

Drawing out attention to the statement of the eyewitness, as recorded under Section 164 of the Code and the other materials in the case diary, he submits that there are strong incriminating materials on record against the petitioner. Answering our query, he submits that the charges have already been framed and there are 12 witnesses in total. The next date has been fixed on 6th May, 2024 for examination of the witnesses.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Prima facie, the materials on record reveal the direct involvement of the petitioner in the alleged offence. Considering the gravity of the offence, its ramification, the manner in which the offence has taken place and the extent of complicity of the petitioner in the alleged offence, we are not inclined to exercise discretion in his favour. In view thereof, the petitioner's prayer for bail is refused, at this stage.

However, we direct the learned trial court to expeditiously conduct the trial without granting any unnecessary adjournment

to either of the parties and if necessary, upon resorting to the steps available under Section 309 of the Code, so that logical conclusion of the case may be reached at the earliest.

The application for bail, being CRM (DB) 67 of 2024 is, accordingly, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Biswaroop Chowdhury, J.)

(Tapabrata Chakraborty, J.)