

0609
2024

FRIDAY

COURT : 01
ITEM : 04
MATTER : 439
STATUS : REJECTED
BENCH ID : 1430
TRANSCRIBER : NANDY

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 390 of 2024

In Re:- An application for **Bail** under section **439** of the Code of Criminal Procedure filed on July 19, 2024 in connection with Rajganj Police Station Case No. 111 of 2020 dated 11.08.2024 under Sections 363DA/302/201/120B/34 of the Indian Penal Code read with Section 6 of the POCSO Act. (Sessions (POCSO) Case No. 83 of 2020).

And

In the matter of : **RAHAMAN ALI**

.....Petitioner

Mr. Supratim Nag, Advocate
Mr. Samrat Sarkar, Advocate

.....for the Petitioner

Mr. Aditi Sankar Chakraborty, Learned APP
Mr. Subhasis Misra, Advocate

.....for the State

Mr. Jaydip Kanta Bhowmik, Advocate

.....for the de facto complainant

1. The brutal murder is committed upon a girl of 15 years of age after being raped repeatedly. The application for bail filed earlier, also dismissed and the instant application has been filed renewing the prayer for bail.
2. The Counsel for the petitioner submits that on the last occasion when the bail application was dismissed on 03.01.2023, this Court categorically observed that the case must be brought to its logical end within six months from the date. It is sought to be contended that despite the direction having passed, the trial has not reached to its fag end and the petitioner is languishing in custody for more than four years.
3. On the last occasion, we directed the District Judge to take a report from the learned Judge, Special Court under the POCSO Act as to why the trial could not be completed as directed by this Court. Such report is filed.

4. After perusal of the report, we find that the trial was delayed because of the lapses and laches on the part of both the parties. At times the prosecution sought for adjournment and equally defence also took time. What we noticed from the said report that despite a direction passed by this Court to conclude the trial within six months, dates were fixed at the interval of two to three months which inculcate a sense in our mind that the learned Judge has not respected the request made by this Court for early completion of the trial.
5. Section 309 of the Code of Criminal Procedure provides that in the event, the trial commenced it should continue on day-to-day basis until all the witnesses are examined. Though the power is bestowed upon the Court under the said provision to grant adjournment but should record a reason in this regard. The bottom line of the entire episode is that all the parties and their respective Counsel and even the learned Judge, Special Court under the POCSO Act have not shown alacrity in completing the trial as requested by this Court.
6. It is high time that not only the member of the Bar but also the member of the Bench should be made aware that if the trial is delayed it would indirectly delay the justice to be imparted. A girl of 15 years of age lost her life after being raped which impacted any rightful citizen and their conscience beyond repair. The girl has lost her life but the justice, in our opinion, should be imparted to avoid any recurrence in future. We have seen the role of the accused recorded in the earlier orders and taking into account the gravity of the offence, we do not think that merely because he is in custody for nearly four years, he should be granted bail.
7. However, we remind the learned Special Judge under POCSO Act to bear in mind the mandate given under Section 309 of the

Code of Criminal Procedure and also the directions passed by this Court in an earlier round of litigation and see that the dates are not fixed after an interval of two to three months to frustrate the very purpose of a speedy trial. There should be a strict adherence of the mandate given under Section 300 of the Code of Criminal Procedure and in order to adhere the same, the prosecution as well as the defence is directed to cooperate with the learned Judge, not only securing the presence of the witnesses but also recording the evidence-in-chief as well as the cross-examination.

8. In view of the above, the prayer for bail is **rejected**.
9. The application being **CRM (DB) 390 of 2024** is **dismissed**.

(HARISH TANDON, J)

(APURBA SINHA RAY, J)