

**2023 LiveLaw (SC) 836**

**IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION  
ABHAY S. OKA; J., PANKAJ MITHAL; J.**

September 25, 2023.

**CRIMINAL APPEAL NO(S). OF 2023 (ARISING OUT OF S.L.P. (CRIMINAL) NO(S). 10043 OF 2023)  
BANAMALI CHOUDHURY @ BANAMALI CHAUDHURI versus THE STATE OF WEST BENGAL**

**Bail - Rape and Murder – Delay in Trial – The appellant, convicted of raping and murdering his niece in 1983, remained on bail during the 40-year trial. The High Court declined to suspend his sentence. Held, bail granted considering the delay in trial and the appellant's age (75 years) urging stringent bail conditions. The Court emphasized prioritizing the appellant's appeal and cautioned the appellant, a Bar member, against unnecessary adjournments. Non-compliance could lead to bail cancellation. Appeal allowed on these terms.**

(Arising out of impugned final judgment and order dated 17-05-2023 in CRAN No. 1/2023 in CRA (DB) No.113/2023 passed by the High Court of Calcutta)

*For Petitioner(s) Mr. Jayant Sud, Sr. Adv. Mr. Rana S Biswas, Adv. Mr. Dinabandhu Choudhary, Adv. Mr. Ardhendu Ghosh, Adv. Ms. Aarushi Singh, Adv. Mr. Shreyash Lalit, Adv. Mr. Kartik Jasra, Adv. Mr. Shivam Nagpal, Adv. Mr. Prannit Stefano, Adv. Mr. Sunil Kumar Sharma, AOR*

*For Respondent(s) Mr. Sunil Fernandes, Adv. Mr. Sanjeev Kaushik, Adv. Ms. Priyanshi Sharma, Adv. Ms. Diksha Daddu, Adv. Ms. Astha Sharma, AOR*

**ORDER**

Heard the learned counsel appearing for the parties.

Leave granted.

The occurrence is of the year 1983 which is forty years old now. There are reasons and reasons why the trial was delayed. The trial came to an end with the order of conviction of the appellant on 21<sup>st</sup> April, 2023. The appellant was throughout on bail. The present age of the appellant is about 75 years.

The appeal before the High Court has been admitted for final hearing. Considering the delay in disposal of the trial, the fact that the occurrence is of the year 1983 and the present age of the appellant, he deserves to be enlarged on bail, pending the final disposal of the appeal before the High Court on appropriate stringent terms and conditions. By setting aside the impugned order dated 17<sup>th</sup> May, 2023, we request the High Court to fix appropriate stringent terms and conditions on which the appellant shall be enlarged on bail, pending the final disposal of the appeal.

Normally, this Court should not issue a direction to a Constitutional Court and for that matter to any court, to fix a time schedule to decide any case. However, this case has a peculiar feature that the trial has taken forty years to conclude.

We, therefore, request the High Court to give out of turn priority to the disposal of the appeal in accordance with law.

We are informed across the Bar that the appellant is a member of the Bar. He is, therefore, expected to ensure that the order of this Court is scrupulously implemented and the appeal is disposed of expeditiously. Therefore, we direct that the appellant shall not seek adjournments on any unreasonable grounds and shall cooperate with the High Court for early disposal of the appeal. In the event, the hearing of the appeal is delayed on account of the default on the part of the appellant, it will be open for the respondent to apply to the High Court for cancellation of the bail.

We accordingly allow the Appeal on the above terms.