

**C. R. M. (DB) 2553 of 2024**

In Re: An application for bail under Section 439 of the Code of Criminal Procedure corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed on 01.08.2024 in connection with Berhampore Police Station Case No.235 of 2021 dated 07.03.2021 under Sections 376AB/326/34 of the Indian Penal Code and Section 4 of the POCSO Act and subsequently charge sheet submitted under Sections 376AB/326/34 of the Indian Penal Code and Section 4 of the POCSO Act.

And

In Re: ***Tujamel Haque @ Tojammel Hoque***  
... .. Petitioner

Mr. Sandip Chakraborty  
Mr. Amanul Islam  
Mr. Sourav Mukherjee  
Mr. Kaustav Das  
... .. for the petitioner

Md. Sabir Ahmed  
Mr. Anisur Rahman  
... .. for the de-facto complainant

Mr. Sandip Kumar  
Ms. Snigdha Saha  
... .. for the State

1. It is submitted on behalf of the petitioner that there are case and counter case between the parties. Allegation of rape of the minor is an embellishment. Minor victim has already been examined. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail.
3. Learned Advocate for the de-facto complainant also opposes the prayer for bail. He submits minor had not only been raped but others were also seriously assaulted. There is possibility witnesses shall be threatened if petitioner is released on bail.
4. We have considered the materials on record. The present case is a counterblast to a criminal case registered against the father of the

minor. Victim has already been examined. Possibility of embellishment owing to prior enmity cannot be ruled out.

5. Under such circumstances, we are of the opinion further detention of the accused/petitioner is not necessary but his movement requires to be restricted in order to instil confidence in the minds of the witnesses.
6. Therefore, the accused/petitioner, namely ***Tujamel Haque @ Tojammel Hoque***, 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 whom must be local, to the satisfaction of the learned Judge, Special Court under the POCSO Act, Berhampore, Murshidabad subject to condition that the said 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 and on further condition that the petitioner, while on bail, shall not enter the jurisdiction of Berhampore Police Station except for the purpose of attending court proceedings and shall report to the Officer-in-charge, Islampur Police Station once in a week until further orders.
7. In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.
8. The application for bail, thus, stands allowed.

**(Apurba Sinha Ray, J.)**

**(Joymalya Bagchi, J.)**

