

05. 27.09.2024
Court
No.28 (Tanmoy)

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 2672 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 / Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, arising out of **Malda** Police Station Case No. **555/2023**, dated **25.09.2023**, under Sections **6/18** of the POCSO Act.

And

In the matter of: - **Ashim Das**

...petitioner.

Mr. Md. Wasim Akram
Ms. Reshmi Khatun

...for the petitioner.

Mr. Debasish Roy, Ld. PP
Mr. Imran Ali
Ms. Manisha Sharma

...for the State.

Dictated by Arijit Banerjee, J.

1. In the order dated August 22, 2024, the name of Ms. Manisha Sharma, learned Advocate representing the State, has not gone down. Let the name be recorded in that order.
2. The petitioner complains of undue delay in progress of trial. He says that he is in custody for over eight months. Charge was framed on March 16, 2024. Thereafter, five dates, i.e., May, 9, 2024, June 4, 2024, July 12, 2024, August 9, 2024 and September 24, 2024, were fixed for examination of the victim girl. The victim girl was not produced before the Trial Court. November 30, 2024, has been fixed as the next date. The petitioner further says that he has been falsely implicated due to political rivalry. He prays for bail.

3. While opposing the prayer for bail, learned Advocate for the State says that there is sufficient incriminating evidence against the petitioner. He draws our attention to the material in the case diary.
4. We have seen the statement of the victim girl recorded under Section 164 of the Code of Criminal Procedure, 1973. She does not talk of any penetrative sexual assault. At the highest it could be an attempt. Five dates were fixed by the learned Trial Court for examination of the victim girl. The girl was not produced. In the meantime, the petitioner is languishing in judicial custody.
5. In the aforesaid facts and circumstances, we are inclined to allow the petitioner's prayer for bail.
6. Accordingly, we direct that the petitioner, namely, **Ashim Das** shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under POCSO Act-cum-Additional District & Sessions Judge, 2nd Court, Malda, subject to condition that the petitioner shall appear before the Trial Court on each and every date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973 / Section 355 of Bharatiya Nagarik Suraksha Sanhita, 2023, and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever and on further condition that the petitioner, while on bail, shall not enter the territorial jurisdiction of Malda

Police Station, except for the purpose of attending Court proceedings and shall furnish his present address, where he will be residing, to the Inspector-in-Charge of Malda Police Station, and shall also meet the Inspector-in-Charge of the jurisdictional Police Station, where he will be presently residing, once in a fortnight, until further orders.

7. In the event the petitioner fails to adhere to any of the conditions stipulated above without any justifiable cause, the Trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.
8. The application for bail being CRM (DB) 2672 of 2024 is accordingly disposed of.
9. Criminal Section is directed to supply urgent photostat certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)