

26. 19.12.2024
Court
No.29 (Pritam)
(Allowed)

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 3084 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 **Katwa** Police Station Case No. **544/2023** dated **07.06.2023** under Section **376AB** of the Indian Penal Code, 1860 and Section **6** of the POCSO Act.

And

In the matter of: - **Milan Khandekar.**

...petitioner.

Mr. Soumya Basu Roy Chowdhury,
Mr. Sarbananda Sanyal

...for the petitioner

Mr. Bitasok Banerjee,
Mr. Aslam Parvez

...for the State.

Dictated by Apurba Sinha Ray, J.

1. Status report filed by the State be kept with the records.
2. Affidavit-of-Service is kept on record. In spite of service, nobody appears for the *de-facto* complainant.
3. The writ petitioner is in custody for 1 (one) year and 5 (five) months. According to him, there is no material against the present petitioner since he has been falsely implicated in this case.
4. The charge was framed in the month of November 2023. Thereafter, no witness has been examined by the prosecution.
5. There are 15 charge-sheet named witnesses and as such, there is no chance of an early conclusion of the trial. Learned counsel

has also submitted that the medical report does not support the prosecution case.

6. Learned counsel for the State opposes the prayer for bail. He relies on statement of the victim recorded under Section 164 Cr.P.C. The learned counsel for the State has submitted that if the petitioner is enlarged on bail, the prosecution may suffer.
7. We have gone through the materials on record. We have considered the medical report of the victim along with the statement of the victim girl recorded under Section 164 Cr.P.C.
8. It is found that the petitioner is in custody for 1 (one) year and 5 (five) months and the trial has not begun till date. There is no chance of an early conclusion of the trial.
9. In view of the above and also assessing the quality of material against the present petitioner, we allow the petitioner's prayer for bail.
10. Hence, the instant bail petition is **allowed**.
11. Accordingly, we direct that the petitioner, namely, **Milan Khandekar** 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 learned *Additional District Judge, 1st Court, Special Court (POCSO)*, Katwa, Purba Burdwan. 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 the Bharatiya Nagarik Suraksha Sanhita, 2023 and shall not intimidate the

witnesses and/or tamper with evidence in any manner whatsoever. The petitioner shall not enter the territorial jurisdiction of the Katwa Police Station, except for the purpose of attending the court proceedings, until further orders. The petitioner shall report to the Officer-in-Charge/Inspector-in-Charge of the local jurisdiction where he shall presently reside once every fortnight, until further orders. The petitioner, through his learned advocate, shall inform the learned trial Court as well as the Investigating Officer his present local address where he would be residing while on bail.

12. In the event the petitioner fails to comply with any of the conditions stipulated above, the trial Court shall be at liberty to cancel the bail in accordance with law without further reference to this court.
13. The application for bail being CRM (DB) 3084 of 2024 is, thus, disposed of.
14. All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.
15. Criminal Section is directed to supply certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)