

50.
Court
No.29

19.11.2024

(Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 3165 of 2024

In Re: - An application for bail under 439 of the Code of Criminal Procedure, 1973 / Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, arising out of **Minakhan** Police Station Case No. **81/2022** dated **07.4.2022** under Sections **328/307/376DA/506/120B** of the Indian Penal Code, 1860 read with Sections **6/8** of POCSO Act, 2012.

And

In the matter of: - **Abul Taleb Molla**

...petitioner.

Mr. Kallol Kumar Basu
Mr. Md. Jannat ul Firdous

...for the petitioner.

Mr. Suman De, Ld. APP
Mr. Md. Sayeed Khan

...for the State.

Dictated by Apurba Sinha Ray, J.

1. From the service report filed in Court today we find that the *de facto* complainant/victim has received notice of this bail petition. However, nobody appears for the *de facto* complainant/victim.
2. Learned Counsel for the petitioner submits that the petitioner is in custody for about two years and seven months. The victim and her parents being the vulnerable witnesses have turned hostile. In fact, there is no chance for the prosecution to succeed in this case. He further submits that five witnesses out of 24 charge-sheet named witnesses have been examined. The petitioner may be granted bail on any condition that this Court may direct.

3. Learned Counsel for the State opposes the prayer for bail.
4. We have gone through the materials on record including the case diary. We have also considered the DNA report. We find that the victim and her parents have turned hostile.
5. In view of the materials on record including the DNA report and considering the lengthy detention of the petitioner coupled with the delay in progress of the trial, we are inclined to allow the prayer for bail of the present petitioner.
6. Accordingly, we direct that the petitioner, namely, **Abul Taleb Molla** 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 (POCSO Act), Basirhat, North 24-Parganas, 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.
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) 3165 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 with all requisite formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)