

10. 09.12.2024
Court
No.29 (Pritam)
(Allowed)

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 3361 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 **Farakka** Police Station Case No. **210/2024** dated **13.06.2024** under Section **376AB** of the Indian Penal Code, 1860 and Section **4** of the **POCSO** Act.

And

In the matter of: - **Hasu Sk. @ Hasimuddin @ Hasumuddin Sk. @ Hasimuddin Sk.**

...petitioner.

Mr. Tapodip Gupta

...for the petitioner.

Mr. Rana Mukherjee,
Ms. Trina Mitra

...for the State.

Dictated by Apurba Sinha Ray, J.

1. Learned counsel for the petitioner has submitted that the petitioner is in custody for about six months and as the investigation is complete, there is no necessity for his further custodial detention. Learned counsel has also pointed out several irregularities in conducting the investigation. The learned counsel for the petitioner has also pointed out that no lady constable had accompanied the victim and her mother at the time of medical examination of the victim. As the investigation is complete, the petitioner may be enlarged on bail on any condition.

2. The learned counsel for the State has opposed the prayer for bail. However, he is unable to contradict the submission of the learned counsel for the petitioner regarding irregularities committed in conducting the investigation.
3. The concerned Medical Officer as per our direction as well as the Investigating Officer are present.
4. We have considered the materials on record and it appears that the victim was not accompanied by any lady constable to the Medical Officers at the time of her medical examination. It appears that the IO is not conversant with the specific rules and guidelines made in this regard by the Hon'ble Supreme Court as well as the prevalent law of the land. The Superintendent of Police is directed to take appropriate steps against the Investigating Officer (SI), Mr. Debnath Ghosal for failing to comply with the guidelines as espoused by the Hon'ble Supreme Court in this regard.
5. However, as there are sufficient materials showing that investigation has not been conducted in a proper manner so far as medical examination of the victim is concerned, we find merits in the submission of the learned counsel for the petitioner. Moreover, the medical examination report does not support the prosecution case at all.
6. In view of the above, we are inclined to **allow** the prayer for bail of the present petitioner.
7. Accordingly, we direct that the petitioner, namely, **Hasu Sk. @ Hasimuddin @ Hasumuddin Sk. @ Hasimuddin Sk.** 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 *Judge, Special Court (POCSO)*, Jangipur, Murshidabad. 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 Farakka Police Station. The petitioner shall report/meet to the Officer-in-Charge/Inspector-in-Charge of jurisdictional Police Station where he will presently reside once in a week, until further orders. The petitioner, through his learned advocate, shall inform the learned trial Court as well as the Officer-in-Charge/Inspector-in-Charge of Farakka Police Station his present local address where he would be residing while on bail.

8. 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.
9. The application for bail being CRM (DB) 3361 of 2024 is, thus, disposed of.
10. The personal appearances of the Medical Officers and IO are dispensed with.

11. Let a copy of this order be sent to the Superintendent of Police, Jangipur Police District at once.
12. The Registrar General, High Court, Calcutta shall communicate this order to the Superintendent of Police, Jangipur Police District.
13. All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.
14. 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.)