

77. 06.11.2024
Court
No.1 (Tanmoy)

Allowed

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

CRM (DB) 519 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 **Falakata** Police Station Case No. **306/2011** dated **30.10.2011** under Section **376(2)(g)** of the Indian Penal Code, 1860.

And

In the matter of: - **Madan Munda @ Chundiya Munda**

...petitioner.

Mr. Hillol Saha Podder
Ms. Mousumi Das

...for the petitioner.

Mr. Abhijit Sarkar
Mr. Sagnik Sankar Sikder

...for the State.

Dictated by Arijit Banerjee, J.

1. The petitioner says that he has been falsely implicated. He is not involved in the alleged offence of rape. He refers to the FSL report which does not support the prosecution case. He says that he is in custody for 94 days. Beyond filing of charge-sheet no progress has been made in the trial. He prays for bail.
2. While opposing the prayer for bail learned Advocate for the State draws our attention to the material in the case diary including statement of the victim lady.
3. We have considered the facts and circumstances of the case. Charge-sheet was submitted on April 30, 2022. We are towards the end of 2024. We do not find any progress in the trial. Although the State says that a co-accused person is still absconding, steps should have been taken to split up the trial.

We also find that FSL report does not support the case of the prosecution.

4. On an overall consideration of the facts and circumstances of the case and the material on record and considering that investigation is complete, we deem it appropriate to enlarge the petitioner on bail. The prayer for bail is thus allowed.
5. Accordingly, we direct that the petitioner, namely, **Madan Munda @ Chundiya Munda** 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 Additional Chief Judicial Magistrate, Alipurduar, 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 Falakata Police Station and shall furnish his present address, where he will be residing, to the Officer-in-Charge of Falakata Police Station and shall also report to the Officer-in-Charge/Inspector-in-Charge of the jurisdictional Police Station, where he will be presently residing, once in a fortnight, until further orders.

6. 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.
7. The application for bail being CRM (DB) 519 of 2024 is accordingly disposed of.
8. 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.)

(Biswaroop Chowdhury, J.)