

81. 06.11.2024
Court
No.1 (Tanmoy)

Allowed

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

CRM (DB) 529 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 **Mathabhanga** Police Station Case No. **519/2022** dated **25.08.2022** under Section **6** of POCSO Act, 2012.

And

In the matter of: - **Biplab Mondal**

...petitioner.

Mr. Hillol Saha Podder
Ms. Mousumi Das

...for the petitioner.

Mr. Kallol Acharjee
Mr. Biswarup Roy

...for the State.

Dictated by Arijit Banerjee, J.

1. The petitioner renews his prayer for bail which was rejected firstly on February 7, 2023, in CRM (DB) 54 of 2023 and secondly on April 29, 2024, in CRM (DB) 151 of 2024. The petitioner says that he is in custody for two years and two months. Only five out of 15 charge-sheet named witnesses have been examined till date. The material on record does not support the prosecution case.
2. While opposing the prayer for bail learned Advocate for the State draws our attention to the material in the case diary.
3. We have seen the deposition of the victim girl. The medical report *prima facie* does not support the prosecution case. The

petitioner is also in custody for a very long period of time. We see little possibility of an early conclusion of the trial.

4. Section 35(2) of the Protection of Children from Sexual Offences (POCSO) Act, 2012, contemplates that the Special Court shall complete the trial as far as possible, within a period of one year from the date of taking cognizance of the offence. Two years and two months have elapsed since the petitioner was apprehended. Charge was framed on February 10, 2023. The trial is still pending.
5. In view of the aforesaid and also keeping in mind the prolonged detention of the petitioner, we are inclined to allow the petitioner's prayer for bail.
6. Accordingly, we direct that the petitioner, namely, **Biplab Mondal** 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-learned Additional Sessions Judge, Mathabhanga, Coochbehar, 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) 529 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.)

(Biswaroop Chowdhury, J.)