

10.03.2025
Item no. 12.
Court No.29.
AB
(Allowed)

CRM (DB) 106 of 2025

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure, 1973/Under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Burtolla Police Station Case No.12 of 2016 Dated 11.01.2016 under Section 366B/370/372/373/120B of the Indian Penal Code read with Sections 3/4/5/6/7 of the Immoral Traffic Prevention Act and Sections 17/4 of the POCSO Act

And

In the matter of : Subhasish Mukherjee Petitioner.

Mr. Sandipan Ganguly, Sr. Adv,
Mr. Arkadeb Bhattacharya for the Petitioner.

Ms. Z. N. Khan,
Ms. Srilekha Chattopadhyay for the State.

Dictated by Arijit Banerjee, J.

1. Status report filed by the State, be kept with the records.
2. Learned Senior Counsel appearing for the petitioner says that the petitioner is in custody for more than nine years. At the argument stage, learned Trial Judge has come to a finding on the basis of evidence on record that the victim girl was not a minor at the time of the alleged incident. Hence, the learned Trial Judge has sent the records to the learned Chief Judge, City Sessions Court, Kolkata. March 20, 2025, has been fixed as the date for appointment of Government Pleader. Purely on the ground of very long detention and pendency of the trial, the petitioner prays for bail.

3. Learned State Advocate, while opposing the bail prayer, tells us that there is sufficient incriminating material against the petitioner. All efforts will be made to conclude the trial on an early date.
4. We have repeatedly said that strength of the prosecution case is no justification for keeping an under trial accused person in incarceration for an unreasonably long period of time without taking the trial to its logical conclusion. Nine years is far too long a period of time to keep an under-trial in custody. Now we see that the arguments will have to be heard de novo. There is little possibility of early conclusion of the trial.
5. Hence, without touching the merits of the case and solely on the touchstone of Article 21 of the Constitution of India, we feel constrained to grant bail to the petitioner.
6. Accordingly, we direct that the petitioner, namely **SUBHASISH MUKHERJEE** shall be released on bail upon furnishing a bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the POCSO Act at Calcutta and on further conditions that he shall not leave the jurisdiction of the concerned Police Station and shall report to the Officer-in-Charge of the concerned Police Station once in a week until further orders.

7. The petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence and/or commit any cognizable offence in any manner whatsoever.
8. In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.
9. The application for bail is, accordingly, allowed.
10. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Prasenjit Biswas, J.)

(Arijit Banerjee, J.)

