

05.03.2025
Item no.21.
Court No.29.
S. De
(Allowed)

CRM (DB) No. 159 of 2025

In Re: An application for bail under Section 439 of the Code of Criminal Procedure corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with **Malda Police Station Case No. 630 of 2023** dated **25.10.2023** under **Sections 366A/363/34** of the Indian Penal Code & **Sections 9. 10 of** Prohibition of Child Marriage Act & **Section 6** of the Protection of Children from Sexual Offences Act (POCSO), 2012.

And

In the matter of : Subhankar Das (Karmakar) @ Suvo.
.....**Petitioner.**

Mr. Sagar Saha,
Ms. Nayana Mukhopadhyay,for the Petitioner.

Mr. Rudradipta Nandy, Ld. APP,
Mr. Tirthankar Dhali,for the State

Dictated by Arijit Banerjee, J.

1. Service report filed by the State be kept with the records.
2. In spite of service nobody appears for the de facto complainant/victim girl.
3. The petitioner renews his prayer for bail which was rejected earlier by an order dated June 11, 2024, passed in CRM (DB) 1382 of 2024. While rejecting his prayer, a co-ordinate Bench had directed the learned Trial Court to expedite the trial as much as possible and bring the same to its logical conclusion, preferably within 6 months from the date of communication of the order to the learned Trial Court. We see that on June 25, 2025, the said order was placed before the learned Trial Court as noted by the learned Trial Judge in his order of that date.

4. The petitioner says that since passing of the order of June 11, 2024, there has been absolutely no progress in the trial. As on that date, two witnesses had been examined by the prosecution. Seven schedules were fixed after that. Not a single witness has been examined. The status remains the same. He is in custody for 488 days (about 1 year 4 months).
5. Learned State counsel, while opposing the prayer, says that it is not the fault of the prosecution that there is delay in progress of the trial. There is sufficient incriminating material against the petitioner. Bail should not be granted.
6. We have considered the material-on-record. As noted in the order dated June 11, 2024, prima facie, there is some inconsistency between the evidence recorded by the victim girl before the learned Trial Court and her statement recorded under Section 164 Cr.P.C. (Section 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023). More importantly, the co-ordinate Bench had directed conclusion of the trial within 6 months from the date of the order dated June 11, 2024. The order was communicated on June 25, 2024. The trial has not only not concluded, not an iota of progress has been made in trial after that date.
7. In view of the aforesaid, solely on the ground of delay in progress of trial and considering the period of detention of the petitioner, we feel constrained to allow the prayer for bail.
8. Accordingly, we direct that the petitioner, namely, **Subhankar Das (Karmakar) @ Suvo** 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 POCSO Act), Malda subject to the conditions that the petitioner shall not leave the jurisdiction of the concerned police station and shall meet the Inspector-in-Charge of the concerned police station once in a fortnight, until further orders.

9. 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 in any manner whatsoever.
10. 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.
11. The application for bail is, accordingly, allowed.
12. 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.)