

CRM (DB) 250 of 2025

In re: An application for bail under Section 439 of the Code of Criminal Procedure/Section 483 of the BNSS in connection with **Topsia Police Station** Case No. **138 of 2016** dated **22.09.2016** under Sections **376(D)/506(II)** of the Indian Penal Code and Section 6 of the POCSO Act.

- A n d -

In the matter of : Babai Das @ Ariyan

.... Petitioner.

Mr. Supriyo Shasmal,

... For the Petitioner.

Mrs. Sayanti Santra,

Mr. Asraf Mondal,

... For the State.

Order dictated by Arijit Banerjee, J.:

1. Service report filed by the State be kept with the records.
2. In spite of service nobody appears to represent the defacto complainant/victim.
3. The petitioner renews his prayer for bail which was rejected at least twice earlier, on February 9, 2023 in CRM (DB) 539 of 2023 and on August 23, 2023 in CRM (DB) 3302 of 2023. He renews his prayer on the ground of very long detention in judicial custody and delay in progress of the trial. He says that he is in custody for more than 8 years 5 months. The prosecution has examined only 7 out of 21 charge sheet named witnesses.
4. Learned State Advocate files a status report. Let the same be kept with the records.
5. We find from the report that the prosecution intends to examine 13 more witnesses.
6. The petitioner is in custody for a very long period of time. An under-trial accused cannot be detained in judicial custody for an indefinitely period of time without taking the trial to its logical

conclusion. 8 years 5 months is far too long a period to keep an under-trial in incarceration.

7. Without touching the merits of the case and solely on the touchstone of Article 21 of the Constitution of India, we are constrained to enlarge the petitioner on bail.

8. Accordingly, we direct that the petitioner, namely, **Babai Das @ Ariyan**, 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 Special Judge under the POCSO Act, South 24 Parganas subject to condition that he shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and on further condition that the petitioner while on bail shall remain within the jurisdiction of the Alipore police station and shall meet the O.C of the said police station once in a fortnight until further orders.

9. 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.

10. The application for bail is, accordingly, allowed.

11. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(**Apurba Sinha Ray, J.**)

(**Arijit Banerjee, J.**)