

28.03.2025
Item no. 34.
Court No.29.
AB
(Allowed)

CRM (DB) 231 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 Hasnabad Police Station Case No.428 of 2018 Dated 07.10.2018 under Sections 363/365/376(n)(i) of the Indian Penal Code read with Section 4 of the POCSO Act

And

In the matter of : Subhash MondalPetitioner.

Mr. Kallol Kr. Basu,
Md. Jannat Ul Firdousfor the Petitioner.

Mrs. Subhasree Patel,
Mr. Arup Sarkarfor the State.

Mr. Debayan Senfor the Defacto complainant.

Dictated by Arijit Banerjee, J.

1. We had granted interim bail to the petitioner on March 13, 2025, on humanitarian grounds. One of the conditions of bail was that the petitioner would surrender before the learned Trial Court positively by March 27, 2025, and he shall be taken into custody.
2. Learned Advocates for the petitioner and the State tell us that yesterday i.e. March 27, 2025, the petitioner duly surrendered before the learned Trial Court and has been remanded to judicial custody.
3. The petitioner now prays for regular bail. He says that he is in custody for nearly four years. Trial is yet to

conclude. On the touchstone of Article 21 of the Constitution of India, he prays for bail.

4. Learned Advocate for the defacto complainant strongly opposes the prayer. He says that this is a case of human trafficking. The victim girl was taken to Chennai, was sold by this petitioner to a third party and was sexually exploited.
5. Learned State Counsel also opposes the prayer and says that trial is likely to conclude on an early date.
6. We see that the petitioner has already been in custody for a long period of time. We have often said that the prosecution may have an iron-cast case to secure the conviction of an accused under-trial person, who is alleged to have committed a very heinous crime. That per se will not justify incarceration of the accused person for an indefinitely or unreasonably long period of time keeping the trial pending. A citizen's fundamental right to personal liberty and speedy trial enshrined in Article 21 of the Constitution of India ordinarily must override all considerations.
7. The State tells us that this petitioner does not have any criminal antecedents. We also see from the status report and the material on record that the delay in progress of the trial cannot be attributed to the petitioner to any appreciable extent.

8. In view of the aforesaid, without touching the merits of the case and solely on the touchstone of Article 21 of the Constitution of India, we are constrained to grant bail to the petitioner.
9. Accordingly, we direct that the petitioner, namely **SUBHASH MONDAL** shall be released on interim 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 Basirhat, North 24 Parganas, and on further conditions that he shall remain within the jurisdiction of Basirhat Police Station and shall meet the Officer in charge/Inspector in charge of Basirhat Police Station on every alternate day until further orders.
10. 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.
11. 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 interim bail in accordance with law without further reference to this Court.

12. Since the trial is pending for quite some time, we direct the learned Trial Court to expedite the trial as much as possible and conclude the same as soon as possible.
13. The application for bail stands allowed.
14. Parties shall communicate this order to the learned Trial Court forthwith.
15. 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.)