

25.02.2025
Item no. 299.
Court No.29.
AB
(Allowed)

CRM (DB) 310 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 Hogalberia Police Station Case No.58 of 2022 Dated 21.02.2022 under Section 376(D) of the Indian Penal Code read with Section 6 of the POCSO Act

And

In the matter of : Kartik MalPetitioner.

Ms. Trina Mitrafor the Petitioner.

Ms. Minoti Gomes,
Ms. Sanjida Sultanafor the State.

Mr. J. I. Hossainfor the Defacto complainant.

Dictated by Arijit Banerjee, J.

1. Status Report filed by the State, be kept with the records.
2. We are alarmed to see from the report that not even one out of 56 charge sheet named witnesses has been examined till date. The petitioner is in custody for three years.
3. We see that charge sheet was submitted in April, 2023. Charge was framed in January, 2024. Thereafter, there has been no progress in the trial.
4. Learned State Advocate, while opposing the prayer for bail, says that the charge is serious. It is of gang rape. There is sufficient incriminating evidence against the accused persons including this petitioner.

5. The prosecution may have the best possible case against the petitioner. That would not justify incarceration of the petitioner for an indefinite period of time. Witness action has not even begun. There are 56 charge sheet named witnesses. There is absolutely no possibility of an early conclusion of the trial. The petitioner is languishing in judicial custody for about three years already.
6. 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 feel constrained to enlarge the petitioner on bail.
7. Accordingly, we direct that the petitioner, namely **KARTIK MAL** 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 Tehatta, Nadia, and on further conditions that he shall remain within the jurisdiction of the Tehatta Police Station and shall meet the Officer in Charge of the Tehatta Police Station twice a week until further orders.
8. 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.
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.)