

40. 05.03.2025
Court
No.29 (Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 396 of 2025

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 / Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with **Tehatta** Police Station Case No. **329/2023** dated **26.4.2023** under Sections 354C/306 of the Indian Penal Code read with Section 12 of POCSO Act, 2012, arising out of POCSO Case No. 28/2024.

And

In the matter of: - **RAJESH GAIN @ RAJ**

...petitioner.

Mr. Jaydeep Biswas
Mr. Asraf Mandal
Mr. Kaushik Ghosh

...for the petitioner.

Ms. Minoti Gomes
Ms. Madhumita Basak

...for the State.

Dictated by Arijit Banerjee, J.

1. Service report filed by the State be kept with the records. In spite of service, nobody appears for the *de facto* complainant/victim.
2. The petitioner renews his prayer for bail, which was rejected earlier on June 10, 2024, in CRM (DB) 1641 of 2024. While rejecting the bail prayer, noting that the petitioner was in custody for 370 days, and also noting that only the first witness out of 12 charge-sheet named witnesses was being examined, a co-ordinate Bench requested the learned Trial Judge to expedite the trial as much as possible and conclude the same at the earliest, preferably within a period of six months from the date of a copy of that order being placed before the learned Judge.

3. The petitioner says that the said order was communicated to the learned Trial Court on July 19, 2024. However, there has been no progress in the trial at all. The examination of the first prosecution witness has still not concluded.
4. Learned State Counsel, in her usual fairness, leaves the matter to the discretion of the Court.
5. In the earlier order, by which the petitioner's bail prayer was rejected, the co-ordinate Bench noted that there was a suicide note left by the deceased where she stated that she was being driven to kill herself by the conduct of the present petitioner who used to blackmail her after taking indecent pictures and videos of her. That is why the bail prayer was rejected and the trial was expedited. However, we find that the order of expediting the trial has had no effect. There has been zero progress in the trial since June 10, 2024. The petitioner is now in custody for more than one year and nine months. There are 12 charge-sheet named witnesses. Only one witness has been examined till date, that too, in part.
6. Without touching the merits of the case and solely on the ground of delay in progress of trial coupled with almost no possibility of an early conclusion of the trial, we feel constrained to enlarge the petitioner on bail.
7. Accordingly, we direct that the petitioner, namely, **RAJESH GAIN @ RAJ** shall be released on bail upon furnishing a bond of Rs. 10,000/- (Rupees Ten Thousand), 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, Tehatta,

Nadia, subject to condition that the petitioner shall appear before the Trial Court on each and every date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973 / Section 355 of Bharatiya Nagarik Suraksha Sanhita, 2023, and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

8. In the event the petitioner fails to adhere to any of the conditions stipulated above without any justifiable cause, the Trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.
9. The application for bail being CRM (DB) 396 of 2025 is accordingly disposed of.
10. Criminal Section is directed to supply urgent photostat certified copies of this order to the parties, if applied for, upon compliance with all requisite formalities.

(Arijit Banerjee, J.)

(Prasenjit Biswas, J.)