

10.03.2025
Item no.57.
Court No.29.
S. De
(Allowed)

CRM (DB) No. 532 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 **English Bazar Police Station Case No. 1674 of 2024** dated **15.11.2024** under **Sections 126(2)/74/351(2)/3(5)** of the **Bharatiya Nyaya Sanhita, 2023** read with **Section 4 of the Protection of Children from Sexual Offences Act (POCSO), 2012.**

And

In the matter of : Asraful Haque @ Asraful Hoque & Anr.

...Petitioners.

Md. Wasim Akram,for the Petitioners.

Ms. Sukanya Bhattacharyya,

Ms. Rita Dutta,

...for the State.

Dictated by Prasenjit Biswas, J.

1. Petitioners say that they are in custody for 78 days. The petitioner no. 2 is the first wife and the *de facto* complainant is the second wife of the victim and due to alleged cruelty inflicted upon the sister of the petitioner by the complainant and her family members, she lodged an FIR being Pukhuria Police Station Case No. 618 of 2024 dated 28.10.2024 and the instant case is nothing but a counter blast against this petitioners. Investigation process is over. Although the prosecution intends to examine nine witnesses to bring home its charges against these petitioners but till date no witness has been examined and as such there is no immediate chance of conclusion of the trial. So, no fruitful purpose will be served by detaining these petitioners further behind the bar.
2. Learned advocate for the State raises strong objection by submitting that there are sufficient incriminating materials in

the case diary which show about prima facie involvement of these accused petitioners with the alleged offence. Our attention is drawn to the statement of the victim girl recorded under Section 164 Cr.P.C. (Section 183 of the B.N.N.S.). The offence involved in this case is serious in nature.

3. We have consulted the materials gathered in the case diary. Investigation process is over by submitting charge sheet by the prosecuting agency on 13.01.2025. It appears that sister of the petitioner no. 2 is the first wife and the complainant of the instant case is the second wife of the victim. There is another case lodged being Pukhuria Police Station Case No. 618 of 2024 in between the parties. So, there is chance of false implication of these accused petitioners with the alleged crime and that probability cannot be ruled out at this stage. Moreover, investigation process has been completed. So, there is no need for further detention of this accused petitioner behind the bar for sake of custodial interrogation. Under such circumstances, we are inclined to enlarge these accused petitioners on bail.
4. Accordingly, we direct that the petitioners, namely, **Asraful Haque @ Asraful Hoque & XXX** shall be released on bail upon furnishing a bond of Rs.10,000/- each, 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 petitioners shall not leave the jurisdiction of the concerned Police Station and shall meet the Officer-in-Charge of the concerned police station once in a fortnight until further orders.

5. The petitioners 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.
6. In the event the petitioners fail to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioners' bail in accordance with law without further reference to this court.
7. The application for bail is, accordingly, allowed.
8. 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.)