

22. 25.03.2025
Court
No.29 (Pritam)
(Allowed)

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION**

CRM (DB) 556 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, arising out of **New Town** Police Station Case No.**156/2022** dated **29.06.2022** under Sections **366A/370/370A/372/109/120B/34** of the IPC, 1860 & Sections 3/4/5/6/9 of the Immoral Traffic Prevention Act, 1956 & Sections 4/6/16/17 of the POCSO Act, 2012.

And

In the matter of: - **Latika Gayen Mukherjee.**

...petitioner.

Mr. Angshuman Chakraborty,
Mr. S. S. Saha

...for the petitioner.

Ms. Jhumpa Sen,
Ms. Arpita De,
Ms. Swastika Chatterjee,
Mr. Samsul Laskar

...for the *victim*.

Mr. Bitasok Banerji,
Mr. Bikram Mitra

...for the State.

Dictated by Arijit Banerjee, J.

1. Pursuant to service, learned advocate appears for the minor victim. Four victims, who are all major, have not appeared. However, we see that those four victims have turned hostile in course of their examination before the learned trial court.

2. The petitioner is in custody for about 2 (two) years and 9 (nine) months. She says that only 7 out of 18 charge-sheet named witnesses have been examined. She refers to an order dated January 20, 2025 passed in CRM (DB) 3871 of 2024, whereby this bench granted bail to two co-accused persons on the ground of delay in progress of trial and lengthy detention of those persons. She claims parity.
3. Learned advocate for the State and learned advocate for the minor victim girl oppose the prayer. They say that there are sufficient incriminating materials against this petitioner.
4. We have often said that even a very strong prosecution case will not justify indefinite incarceration of an accused person.
5. At this stage, learned State counsel tells us that by an order dated July 22, 2024, a co-ordinate bench had directed the prosecution to conclude the trial within one year. That time period has not yet elapsed. Therefore, this application is premature.
6. It is true that the time period granted by the co-ordinate bench has not elapsed. However, the pace at which the trial has proceeded, makes it extremely doubtful that the trial will conclude within the time period specified by the co-ordinate bench. 4 out of 5 victims have turned hostile. The petitioner is in custody for a very long period of time. Hence, without touching the merits of the case and solely on the touchstone of Article 21 of the Constitution of India and also considering that

the petitioner is a lady, we are inclined to grant bail to the petitioner.

7. Accordingly, we **allow** the petitioner's prayer for bail.
8. Accordingly, we direct that the petitioner, namely, **Latika Gayen Mukherjee**, 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 learned *Judge, Special POCSO Court, Barasat, North 24 Parganas*. 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 the Bharatiya Nagarik Suraksha Sanhita, 2023 and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever. The petitioner shall not enter the territorial jurisdiction of *New Town* Police Station except for the purpose of attending court proceedings and shall intimate her current local address to the Officer-in-Charge as well as to the learned trial court where she will presently reside while she will be on bail, until further orders.
9. In the event the petitioner fails to comply with any of the conditions stipulated above, the trial Court shall be at liberty to cancel the bail in accordance with law without further reference to this court.
10. The application for bail being CRM (DB) 556 of 2025 is, thus, disposed of.

11. All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.
12. Criminal Section is directed to supply certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)