

34. 13.03.2025
Court
No.29 (Tanmoy)

Allowed

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 569 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 **Hemtabad** Police Station FIR No. 109/2022 dated 21.03.2022 under Sections **448/506/34** of the Indian Penal Code read with Sections 4/17 of POCSO Act, 2012. POCSO Case No. 15/2022.
And

In the matter of: - **DIPANKAR BISWAS @ DIPANKAR DAS @ GULLU**
...petitioner.

Mr. Sarwar Jahan
Mr. Sayantan Hazra
...for the petitioner.

Mr. Binoy Kr. Panda
Mr. Akash Ganguly
...for State.

Dictated by Arijit Banerjee, J.

1. The petitioner renews his prayer for bail which was last rejected on July 27, 2023, by an order passed in CRM (DB) 2765 of 2023. While rejecting his prayer for bail, a co-ordinate Bench had requested the Trial Court to expedite the trial and conclude the same on an early date bearing in mind the statutory mandate under Section 35(2) of the Protection of Children from Sexual Offences (POCSO) Act, 2012.
2. The petitioner says that in spite of such direction, nothing has progressed. Only one prosecution witness has been examined and that too, way back in July, 2023. There are 15 charge-sheet named witnesses. He is in custody already for two years and 11 months. On the ground of inordinate delay he renews his prayer for bail.

3. Service report and status report filed by the State be kept with the records.
4. In spite of service, nobody appears for the *de facto* complainant/victim.
5. The status report is misleading. It says that no witness has been examined when it appears from the order-sheets that one prosecution witness has been examined. We deprecate such irresponsibility on the part of the Officer who has prepared the report.
6. We cannot be unmindful of a citizen's fundamental right to personal liberty and speedy trial. The prosecution may have an iron-cast case to secure the conviction of an accused person. That, *per se*, would not justify incarceration of the accused person for an indefinitely long period of time.
7. In the present case, we find that the petitioner is in custody for about three years. Only one prosecution witness has been examined and 14 witnesses are yet to be examined. After July, 2023, there has been zero progress in the trial. There is no possibility of an early conclusion of the trial.
8. Hence, without touching the merits of the case and solely on the touchstone of Article 21 of the Constitution of India, we feel constrained to grant bail to the petitioner.
9. Accordingly, we direct that the petitioner, namely, **DIPANKAR BISWAS @ DIPANKAR DAS @ GULLU** 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, Raiganj, Uttar Dinajpur, 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 and on further condition that the petitioner, while on bail, shall not enter the territorial jurisdiction of Hemtabad Police Station and shall furnish his present address through his learned Advocate to the Inspector-in-Charge/Officer-in-Charge of Hemtabad Police Station as well as the learned Trial Court and shall also report to the Inspector-in-Charge/Officer-in-Charge of the concerned Police Station, within whose jurisdiction he will be presently residing, once in a week, until further orders.

10. 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.
11. The application for bail being CRM (DB) 569 of 2025 is accordingly disposed of.
12. 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.)

(Om Narayan Rai, J.)