

14.05.2025
Item no.19(DL)
Court No.39
srm
(Rejected)

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

C.R.M.(DB) 924 of 2025

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure, 1973 read with Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with POCSO Trial No.04(01) of 2023 arising out of Hanskhali Police Station Case No.327 of 2022 dated 10.04.2022 re-registered as C.B.I. Case No.RC0562022S0011 under Sections 376(D)/302/201/34 of the Indian Penal Code and under Section 6 of the Protection of Children from Sexual Offences Act, 2012, pending before learned Additional District & Sessions Judge Cum Judge, Special Court (POCSO Act), Ranaghat, Nadia;
And

In Re : XXX

.... Petitioner

Mr. Arindam Jana,
Mr. Sumanta Das,
Mr. Kailash Tripathi,
Mr. Suman Biswas

...for the Petitioner.

Mr. Amajit De

... for the CBI.

Ms. Sibangi Chattopadhyay,
Ms. Momtaj Begam

...for the *de facto* complainant.

Learned Advocate for the petitioner submits that the petitioner is in custody for last three years. The petitioner stands on the same footing as that of co-accused Dipta Gayali, Akash Barai @ Tarak and Surajit Roy. Referring to the decision of the Hon'ble Supreme Court in ***Javed Gulam Nabi Shaikh versus State of Maharashtra & Anr.*** reported in ***(2024) 7 S.C.R. 992***, he submits that since the petitioner is detained in custody for a considerable period without there being progress in trial, the petitioner is entitled to be enlarged on bail.

Learned Advocate for the CBI submits that the charges against the co-accused, who have been granted bail are different from the charges framed against the petitioner. There are sufficient incriminating materials against the petitioner. He seeks for dismissal of the application.

Similarly, learned Advocate for the *de facto* complainant also seeks for dismissal of the bail prayer.

Perused the materials on record.

At the outset, upon perusal of the order of the trial court it is found that charges under Section 120B read with Sections 34/302/376DA/201/506 of the Indian Penal Code and Section 6 of the POCSO Act are framed against this petitioner and two other accused persons, which is distinct and different from the charges framed against Dipta Gayali, Akash Barai @ Tarak and Surajit Roy in respect of whom the parity has been sought for. The case of the prosecution is of gang rape and murder of a minor victim. There are sufficient incriminating materials against the petitioner.

In *Javed Gulam Nabi Shaikh (supra)*, the accused was in custody for four years without charges been framed. Admittedly, 26 witnesses have already been examined on behalf of the prosecution. Therefore, it is not a case that the trial is not being proceeded with. Learned Advocate for the CBI submits that 24 more witnesses will be examined and it is informed that on 28th April, 2025 the I.O. has already been examined. Hence, the facts of the cited decision is distinguishable.

In view of the above materials and the gravity of the offence, I am not inclined to grant bail to the petitioner.

Accordingly, the prayer for bail of the petitioner is rejected.

Learned trial court is directed to expedite the trial to the fullest and conclude the same at an early date without granting any unnecessary adjournment to either of the parties.

Prosecution is directed to produce witnesses before the Trial Court on the date fixed.

Parties shall cooperate in the trial for examination of the witnesses.

The application for bail being **CRM (DB) 924 of 2025** stands dismissed.

(Bivas Pattanayak, J.)