

01.05.2025
Sl No.15
Ct. No.39
ss
(Allowed)

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

CRM (DB) 1031 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 Berhampore Police Station Case No.828 of 2024 dated 08.06.2024 under Section 376(3) of the Indian Penal Code, 1860 read with Section 6 of POCSO Act, 2012 and charge sheet no. 01 of 2024 dated 27.07.2024 under Section 376(3) of the Indian Penal Code, 1860 read with Section 6 of POCSO Act, 2012 pending before the learned Special Judge (POCSO) Court, Berhampore.

And

In Re : Debasish Kundu @ Deba Kundu

.....Petitioner

Mr. Sabir Ahmed
Mr. Tashim Ahamed
Mr. Dhiman Banerjee
Mr. Ezaz Ahmed

.....for the Petitioner

Mr. Arindam Sen
Mr. Kaustav Banerjee

.....for the State

Affidavit of service filed on behalf of the petitioner is taken on record.

Service report filed by the State is taken on record.

Despite service none appears on behalf of the *de facto* complainant.

Learned Advocate for the petitioner submits that the victim eloped with the petitioner out of her own accord. The contemporaneous medical document does not depict of any forcible sexual assault. There are no injuries found during medical examination of the victim. The statement of the victim which is recorded after seven days of the occurrence is nothing but improvement in the prosecution case. The petitioner is in

custody for last 10 months 24 days. Upon completion of investigation, charge-sheet has been submitted. He seeks for enlargement of the petitioner on bail.

Opposing such prayer for bail learned Advocate for the State submits that the victim has categorically implicated the petitioner of forcible sexual assault upon her, which is also corroborated by the statements of other witnesses. He seeks for dismissal of the bail application.

Perused the case diary and the materials on record.

It is found that the victim in her statement before the Magistrate implicates this petitioner. Be that as it may, upon perusal of the medical examination report it is found that the victim before the attending doctor stated that she left out of her own accord. There are no such notable injuries in the medical examination report. Petitioner is in custody for 10 months 24 days. Charge-sheet has been submitted upon completion of investigation in this case. In view of above, I am inclined to enlarge the petitioner on bail.

Accordingly, the petitioner, namely, **Debasish Kundu @ Deba Kundu**, 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 a local, to the satisfaction of the learned Judge, Special (POCSO) Court, Berhampore, Murshidabad subject to condition that the petitioner shall report before the Inspector-in-Charge of concerned Police Station once in a fortnight until further orders. The petitioner shall not enter the jurisdiction of concerned police station

except for the purpose of attending Court proceedings and reporting to the Inspector-in-Charge of concerned Police Station. The petitioner shall furnish the address where he shall presently reside before the learned trial court, the investigating officer and the Officer-in-Charge of the police station under whose jurisdiction he shall presently reside. The petitioner shall appear before the learned Trial Court on each and every day 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.

In the event the petitioner fails to comply with the conditions as enshrined hereinbefore, it is open to the trial court to cancel the bail in accordance with law without further reference to this Court.

Accordingly, the application for bail being **CRM (DB) 1031 of 2025** is disposed of.

(Bivas Pattanayak, J.)