

01.05.2025
Item no.17
Court No.39
ss
(Dismissed)

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

C.R.M.(DB) 1044 of 2025

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure, 1973 corresponding to Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Narendrapur Police Station Case No.621 of 2022 dated 7.6.2022 under Sections 363/365/376DA of Indian Penal Code and under Sections 6 of the Protection of Child from Sexual Offences Act.

And

In Re : Toufik Molla

.... Petitioner

Mr. Habibur Rahaman
Mr. Archishman Singh

....for the petitioner

Mr. Bibaswan Bhattacharya
Ms. Poulami Bose

..... for the State

Md. Wasim Akram
Mr. Sabrina Parvin

... for the *de facto* complainant

Learned Advocate for the petitioner submits that there are no direct allegations against the petitioner. The petitioner was not named in the F.I.R. Subsequently, his name has transpired. Though the victim identified the petitioner in Test Identification Parade but she failed to identify the petitioner during her examination before the Court. The victim deposed that she was shown a picture of the petitioner prior to the Test Identification Parade. Therefore, the involvement of the petitioner in the alleged offence is doubtful. The petitioner is in custody for more than 2 years. He seeks for enlargement of the petitioner on bail.

Learned Advocate for the State opposes such prayer for bail and submits that the victim has been ravished by one Akhtar and 4/5 other persons. This petitioner was identified in Test Identification Parade. The victim during her examination in Court turned hostile and failed to identify the petitioner. He seeks for dismissal of the bail application.

Learned Advocate for the *de facto* complainant leaves the matter to the discretion of the Court.

Perused the case diary and materials on record.

The victim in her statement before the Magistrate stated that she was kidnapped and taken to Khidderpore where she was sexually assaulted by Akhtar as well as few other persons. The petitioner is identified by the victim in the Test Identification Parade. During her examination the victim failed to identify the present petitioner. The consequence of the previous identification during Test Identification Parade vis-a-vis failure to identify the petitioner before the Court during deposition is to be assessed and examined after completion of trial. The deposition of the victim shows Akhtar and another 3/4 persons sexually assaulted her against her will. The charges are of gang rape. Considering the above materials and bearing in mind nature and gravity of the offence, this Court is not inclined to grant bail to the petitioner.

Accordingly, the bail prayer is rejected.

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

The parties are directed to cooperate in the trial for examination of the witnesses.

Parties are at liberty to communicate this order to the learned trial court.

The application for bail being **CRM (DB) 1044 of 2025** stands dismissed.

(Bivas Pattanayak, J.)