

20.05.2025
Item no.2
Court No.39
ss
(Rejected)

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

C.R.M.(DB) 1093 of 2025

In re : An Application for bail under Section 439 of the Code of Criminal Procedure, 1973/ under section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Canning Police Station Case No.418 of 2019 dated 28.07.2019, under sections 363, 366A, 370A, 372 of the Indian Penal Code and Section 6/17 of the Protection of Children from Sexual Offences Act, 2012, pending before the Learned Additional Sessions Judge, 2nd Court, Alipore, South 24-Parganas as Special ST No.15(09)21.

And

In Re : XXXXXXXXX

.... Petitioner

Mr. Deepak Prahladka
Ms. Reshmi Khatun

...for the Petitioner.

Mr. Saibal Bapuli, Ld. APP
Ms. Puspita Saha

...for the State.

Service report filed by the State is taken on record.

Learned Advocate for the petitioner submits that there are no such allegations against the petitioner in the alleged offence. The petitioner is in custody for more than 5 years and after conclusion of evidence of the prosecution, date has been fixed for examination of accused under Section 313 of Cr.P.C. The victim at the time of incident was major and as such POCSO Act is not attracted in the facts and circumstances of the present case. He seeks for enlargement of the petitioner on bail.

Opposing such prayer learned Advocate for the State submits that this petitioner is the aunt of the victim who was travelling in the vehicle along with victim and two other accused

persons. Thereafter, the victim was trafficked to Delhi. There are serious allegations against this petitioner. He also submits that the aspect of such determination of age of the victim will be decided in the trial. The bail application of one accuse namely Sakher Ali Laskar @ Raju was rejected by this Court on 16th May, 2025 in CRM(M) 258 of 2025. He seeks for dismissal of the application for bail.

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

Perused the case diary and materials on record.

The victim in her statement before the Magistrate has stated that her aunt, the present petitioner, handed her over to the co-accused persons, namely, Mirja and Raju. Thereafter, she was trafficked. The evidence of the victim before the trial court also reveals that the present petitioner being the aunt of the victim took the victim to Canning for the purpose of giving her marriage where Mirja and Raju were present. After eating rice, which was offered, she felt unconscious and she was trafficked. The deposition of P.W.1, father of the victim, shows that on the fateful day this petitioner along with the victim and other two accused were travelling in the vehicle and thereafter the victim got missing. Considering the above materials and the nature and gravity of the offence, this Court is not inclined to grant bail to the petitioner. So far as the controversy with regard to age of the victim is concerned, the same may be decided in trial.

It is made clear that the observation made hereinabove is only for the sake of disposal of the bail application.

Accordingly, the bail prayer of the petitioner is rejected.

It is informed by the learned Advocate for the State that 22nd May, 2025 is the date fixed for examination of the accused under Section 313 of the Cr.P.C.

The learned trial court is directed to expedite the trial and conclude the same at an early date.

The parties are directed to cooperate in the trial.

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

The application for bail being **CRM(DB) 1093 of 2025** stands dismissed.

(Bivas Pattanayak, J.)