

23.04.2025
Item no.2
Court No.39
srm
(Rejected)

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

C.R.M.(M) 13 of 2025

In Re:- An application for bail under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Khanakul Police Station Case No.167/2025 dated 07.03.2025 under Sections 137(2)/140(3) of the Bharatiya Nyaya Sanhita, 2023 adding Section 6 of the Protection of Children from Sexual Offences Act, 2012;

And

In Re : Raju Bhukto @ Bhuka

.... Petitioner

Mr. Niladri Sekhar Ghosh,
Ms. Sampurna Chatterjee,
Ms. Labani Sikder,
Mr. Souvik Dey

...for the Petitioner

Ms. Anasuya Sinha,
Mr. Anindya Sundar Chatterjee

... for the State.

Ms. Tannistha Bandyopadhyay

...for the *de facto* complainant.

Learned Advocate for the petitioner submits that the victim in her statement before the Magistrate has not implicated the petitioner. The learned trial court rejected the bail prayer on the basis of medical evidence. There cannot be any presumption in law arising from medical evidence, when the victim herself clearly exonerates the petitioner. Though the medical report shows rupture of hymen but that can be for other reasons too apart from sexual intercourse. The ocular evidence prevails over the medical evidence. Further the POCSO Act was not enacted to punish the relation of teenage love. He seeks for enlargement of the petitioner on bail.

Learned Advocate for the State opposing such prayer submits that the victim in her statement has tried to shield the petitioner. The victim made incorrect statement that she was recovered from her aunt's house which is contrary to the safe custody memo which shows that she has been recovered from the house of the petitioner. Medical evidence shows rupture of the hymen. She seeks for dismissal of the application.

Learned Advocate for the *de facto* complainant also submits that the victim has been recovered from the house of the petitioner. The medical evidence is also against the petitioner. She also seeks for dismissal of the application.

Perused the case diary and the materials on record.

It is a fact that the victim in her statement did not implicate the petitioner. However, the medical examination report shows rupture of hymen and mild bleeding due to hymeneal tear. Her statement that she went to her aunt's house runs contrary to the safe custody memo which clearly shows that the victim has been recovered from the house of the petitioner at village Kajipara, P.S. Amta, District-Howrah wherefrom the petitioner has also been arrested. Considering the materials, as indicated above, and the nature and gravity of the offence, this Court is not inclined to grant bail to the petitioner.

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

The application for bail being **CRM (M) 13 of 2025** stands dismissed.

(Bivas Pattanayak, J.)