

29.04.2025
Sl No.7
Ct. No.39
srm
(Allowed)

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

CRM (M) 114 of 2025

In Re:- An application for bail under Section 483 of the Bharatiya
Nagarik Suraksha Sanhita, 2023 read with Section 439 of the
Code of Criminal Procedure, 1973 in connection with Eco Park
Police Station Case No.193/2023 dated 18.08.2023 under
Sections 4/6 of POCSO Act, 2012;

And

In Re : XXX

.....Petitioner

Mr. Biswajit Manna

.....for the Petitioner

Mr. Anowar Hossain,
Mr. Amanul Islam

.....for the State

Learned Advocate for the petitioner submits that initially
the case was initiated under Sections 8/12 of the POCSO Act.
However, upon completion of the investigation charge sheet
has been submitted under Sections 4/6 of the POCSO Act
without there being any evidence of penetrative sexual assault.
Neither the victim in her statement before the Magistrate nor
before the Court has stated of any penetrative sexual assault
by the petitioner. The medical report does not depict of any
injury. Further, the birth certificate of the victim was not seized
during investigation. The medical examination report shows
that the victim had 30 pairs of teeth, and thus as per medical
science the victim attended the age of 17 years. The petitioner
is in custody for one year nine months and victim has already
been examined. He seeks for enlargement of the petitioner on

bail. He files copy of the documents supplied upon completion of investigation, including medical report of the victim, which is taken on record.

Learned Advocate for the State opposes such prayer for bail and submits that there are specific allegations against the petitioner of his involvement in the alleged offence. He seeks for dismissal of the bail application.

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

Perused the case diary and the materials on record.

The statement of the victim before the Magistrate as well as in her evidence in Court does not disclose of any sexual intercourse. The victim before the attending doctor also did not state of any history of sexual intercourse. There are no such notable injuries noted in her private parts. The victim has already been examined before the learned trial court. The petitioner is in custody for one year nine months. In view of the above, I am inclined to grant bail to the petitioner.

Accordingly, the petitioner 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, Barasat subject to the condition that the petitioner shall report to the Officer-in-Charge, Eco Park Police Station on every fortnight until further orders. 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. The petitioner shall not enter the jurisdiction of Eco Park Police Station excepting for attending court proceedings and for reporting to the Officer-in-Charge of the 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 and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to comply with any of the conditions as stated above, the learned trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

Accordingly, the application for bail being **CRM (M) 114 of 2025** is disposed of.

(Bivas Pattanayak, J.)