

30.04.2025
Court No.39
D/L 6
ab
(rejected)

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (M) 177 OF 2025

In Re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973/ Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Habra P.S. Case No. 667 of 2023 dated 25.07.2023 under Sections 376(2)(n)/328/313/506 of the Indian Penal Code and Section 6 of the POCSO Act.

And

In the matter of: **XXXXXX** **Petitioner.**

Mr. Fazlur Rahaman,
Mr. Md. Babul Hussain,
Mr. Mihinur Hossain
... For the Petitioner.

Mr. Bitashok Banerjee,
Mr. Debarshi Brahama
... For the State.

Mr. Nilanjan Adhikari,
Mr. Nitin Sharma
... For the *de facto* complainant

Service report filed by the State is taken on record.

It is found that service has been effected upon the *de facto* complainant.

Learned advocate for the petitioner submits that he is in custody since July, 2023 without there being considerable progress in the trial. Only 4 witnesses out of 24 witnesses have been examined till date. The accused-petitioner is entitled to speedy trial. To buttress his

contention, he relies on the decisions of the Hon'ble Supreme Court passed in **Sk. Javed Iqbal – Versus – State of U.P.**, reported in **(2024) 8 SCC 293** and in **Javed Gulam Nabi Shaikh – Versus – State of Maharashtra and Another**, reported in **2024 SCC Online SC 1693**. He seeks for enlargement of the accused/petitioner on bail.

Learned advocate for the State submits that as per the statement of the victim recorded before the learned Magistrate as well as her deposition in Court, there are allegations against the petitioner of having sexual intercourse with the victim resulting in her pregnancy. He seeks for dismissal of the bail application.

Learned advocate for the *de facto* complainant also opposes the prayer for bail and submits that due to sexual intercourse on several occasions by the petitioner, the victim became pregnant. He seeks for dismissal of the bail application.

Perused the case diary and the materials on record.

The statement of victim recorded before the learned Magistrate as well as her deposition in Court implicates the petitioner of his involvement in forcible sexual intercourse with the victim. The victim became pregnant. Considering the above and nature and gravity of the offence, I am not inclined to grant bail to the petitioner.

Accordingly, the prayer for bail is rejected.

The Status report shows that four witnesses out of 24 witnesses have already been examined and the next date is fixed on 8th May, 2025 for further examination of prosecution witnesses.

Both the decisions cited on behalf of the petitioner relate to offences Unlawful Activities (Prevention) Act, 1967. Further in *Sk. Javed Iqbal (supra)*, the period of detention is 9 years and in *Javed Gulam Nabi Shaikh (supra)*, the period of detention is more than 4 years. Thus, the facts are distinguishable from the case at hand.

However, bearing in mind that the right to personal liberty is a fundamental right, learned Trial Court is directed to expedite the trial to the fullest and conclude the same at an early date without granting unnecessary adjournment to either of the parties.

Accordingly, **CRM (M) 177 of 2025** is dismissed.

(Bivas Pattanayak, J.)