

02.05.2025
Item No.5.
Daily List
Court No.39
(Allowed)
Mithun

CRM (M) 181 of 2025

In re : An Application for bail under Section 439 of the Code of Criminal Procedure, 1973 read with Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in POCSO Case NO.38 of 2023 pending before the learned Judge, Special Court cum the Learned Additional District and Sessions Judge, 2nd Court, Malda arising out of Gazole Police Station Case No.189 of 2023 dated 19.03.2023 under Section 376DA of the Indian Penal Code and under Section 6 of the Protection of Children from Sexual Offences Act.

-And-

In the matter of : Manoj Mal @ Monoj Mal

... Petitioner

Mr. Sourav Chatterjee,
Ms. Namrata Chatterjee

...for the petitioner

Mr. Bibhaswan Bhattacharya,
Ms. Debadrita Mondal

... ...For the State

Service report along with status report filed on behalf of the State is taken on record.

Learned Senior Advocate appearing for the petitioner submits that the bail prayer of the petitioner was previously rejected on 3rd July, 2023 in CRM(DB) 2372 of 2023. Thereafter, on 11 occasions prosecution failed to produce witnesses and only one witness has been partly examined till date. The petitioner is in custody for 2 years and one month. He seeks for enlargement of the petitioner on bail on the ground of delay in

progress of trial. To buttress his contention he relies on the following orders passed in **CRM(DB) 3169 of 2024, CRM(DB) 3491 of 2024, CRM(DB) 3883 of 2024 and CRM (DB) 3475 of 2024** by this Court.

Learned advocate for the State submits that there are direct allegations against the petitioner of his involved in the alleged offence. Further although there are 32 witnesses but prosecution will examine 15 more witnesses.

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

Perused the case diary and the materials on record.

It is found that charges have been framed on 10th August, 2023. Only one out of 32 witnesses have been examined till date. The petitioner is in custody for 2 years one month. From the orders sheets of the learned Trial Court annexed to the application it appears that on several dates the prosecution failed to produce their witnesses. There is no possibility of early conclusion of trial.

Accordingly, without touching the merits of the case and solely on the touchstone of Article 21 of the Constitution of India, I am inclined to enlarge the petitioner on bail on stringent conditions .

The petitioner, namely, **Manoj Mal @ Monoj Mal** 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 Court-cum-the Learned Additional District and Sessions Judge, 2nd Court, Malda subject to condition that the petitioner shall report to the Inspector-in-Charge of the concerned Police Station. The petitioner shall not enter the jurisdiction of Gazole Police Station except for the purpose of attending court proceedings and reporting to the Inspector-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 Inspector-in-Charge of the police station under whose jurisdiction he shall presently reside. The petitioner shall appear before the learned Trial Court on each and every date fixed and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioners fail to comply with the conditions as enshrined hereinbefore, it is open to the trial Court to cancel the bail without further reference to this Court.

Accordingly, **CRM (M) 181 of 2025** is disposed of.

(Bivas Pattanayak, J.)