

03.07.2025
Item No.4(DL)
Court No.42
srm
(Allowed)

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

C.R.M.(M) 255 of 2025

In re : An Application for bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with C.M.C. No.388 of 2025 arising out of Shibpur Police Station Case No.15 of 2025 dated 06.01.2025 under Section 64(2)(m) of the Bharatiya Nyaya Sanhita, 2023 read with Section 6 of the Protection of Children from Sexual Offences Act and Sections 9 & 10 of the Prohibition of Child Marriage Act, 2006 pending before learned Judge, Special POCSO Court, Howrah;

-And-

In the matter of : XXX

... Petitioner

Mr. Joydeep Biswas,
Mr. Ashok Das,
Ms. Ayana Dey,
Ms. Hasi Jana,
Mr. Shreyash Mondal

...for the Petitioner.

Ms. Suhanya Bhattacharyya,
Mr. Arani Bhattacharyya

... ...for the State.

Service report filed by the petitioner is taken on record.

It is found from the reports that several endeavour has been taken to serve the victim girl as well as the *de facto* complainant. Report also shows that the notices have been affixed in a conspicuous place of the residence of the *de facto* complainant on different dates and the victim has been informed over telephone.

It is informed by the learned Advocate for the State that the victim has gone to Maharashtra for her treatment. However, she is unable to apprise when the victim will come back.

In such event the application is taken up for hearing.

Learned Advocate for the petitioner submits that as per the statement of the victim there are no such allegations to attract the provision of Section 6 of the POCSO Act. So far as the allegations of Prohibition of Child Marriage Act is concerned, the mother of the victim portrayed her daughter to be aged about 22 years. On good faith, the petitioner entered into marital tie with the victim. The victim refused to undergo medical examination. The petitioner has no criminal antecedent whatsoever. The petitioner is in custody for 180 days and already after completion of investigation charge sheet has been submitted. He seeks for enlargement of the petitioner on bail.

Opposing such prayer for bail, learned Advocate for the State submits that the petitioner has violated the provision of Prohibition of Child Marriage Act by entering into marriage with the minor. He seeks for dismissal of the bail application.

Perused the case diary and the materials on record.

It is found from the statement of the victim that though she has narrated of torture in the matrimonial home, however there is absence of any allegation of aggravated sexual assault. There cannot be any quarrel that the victim was married to the petitioner. Under what circumstances such marriage took place and the complicity of the petitioner in the said marriage may be tested and examined in trial. The petitioner is in custody for 180 days and upon completion of investigation charge sheet has already been submitted. Considering the entire circumstances, 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, Howrah. The petitioner shall appear before the 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 and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever. The petitioner shall meet the Officer-in-Charge of Shibpur Police Station once in a fortnight, until further orders. The petitioner shall not enter within the territorial jurisdiction of Malipanchghara Police Station except for the purpose of attending court proceedings and for reporting to the Officer-in-Charge of the concerned Police Station, until further orders. 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.

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) 255 of 2025** is disposed of.

(Bivas Pattanayak, J.)