

07.05.2025
Item no.6
Court No.39
ss
(Allowed)

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

C.R.M.(M) 223 of 2025

In Re:- An Application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 corresponding to Section 439 of the Criminal Procedure Code, 1973 in connection with Tangra Police Station Case No.334/22 dated 04.12.2022 under Section 363/366A/385/376 of the Indian Penal Code read with Sections 04/06 of the Protection of Children from Sexual Offences Act, pending before the learned Additional Sessions Judge, 1st Court, Sealdah, South 24-Parganas in connection with Special trial No.02(04)2023, Special Case No.50 of 2022.

-And-

In Re : Joynal Gazi alias Molla alias Jainal Gazi
... Petitioner

Mr. Angshuman Chakraborty,
Mr. Shashanka Shekhar Saha
...for the petitioner

Mr. Partha Pratim Das
Ms. Jonaki Saha
...for the State

Mr. Rajesh Agarwal
... for the *de facto* complainant

Learned Advocate for the petitioner submits that the evidence of victim is exonerative in nature. The victim left her house out of her own accord. There are no such allegations of any forcible sexual intercourse upon her by the petitioner. The petitioner is in custody for 2 years and 4 months. He seeks for enlargement of the petitioner on bail.

Learned Advocate for the State opposes such prayer for bail and submits that previously the victim left with the petitioner. Thereafter she was recovered but again she eloped with the petitioner. The subsequent statement of the victim

recorded under Section 164 of the Cr.P.C. implicates the petitioner of his involvement in the alleged offence. The victim due to sexual intercourse became pregnant. He seeks for dismissal of the bail application.

Learned Advocate for the *de facto* complainant submits that the victim left the house with the petitioner though the *de facto* complainant tried to resist her.

Perused the case diary and materials on record.

Although the statement of the victim before the Magistrate implicates the petitioner of taking her away and of his involvement in the alleged offence, however, she does not say so in her evidence in Court. The petitioner is in custody for 2 years 4 months. Such being the position, I am inclined to enlarge the petitioner on bail.

It is made clear that the observation made hereinabove is only for the sake of disposal of this application.

Accordingly, the petitioner, namely, **Joynal Gazi alias Molla alias Jainal Gazi**, 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, Sealdah, subject to condition that 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 and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever. The petitioner shall meet the Inspector-in-

Charge of concerned Police Station every fortnight until further orders.

In the event the petitioner fails to comply with the conditions as enshrined hereinbefore, it is open to the trial court to cancel the bail in accordance with law without further reference to this Court.

Accordingly, the application for bail being **CRM (M) 223 of 2025** is disposed of.

(Bivas Pattanayak, J.)