

07.05.2025
Item no.10
Court No.39
ss
(Dismissed)

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

C.R.M.(M) 276 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 Harwood Point Coastal Police Station Case No.189 of 2023 dated 29.05.2023 under Section 447/376AB of the Indian Penal Code corresponding to Section 329(3)/65(2) of the Bharatiya Naya Sanhita, 2023 and Section 6(1) of the Protection of Children from Sexual Offences Act, subsequently Charge Sheet filed under Section 447/376AB of the Indian Penal Code vide Charge Sheet No.261 of 2023 dated 10.07.2023 pending before the learned Additional Session Judge and Special Court POCSO Act, Kakdwip, South 24-Parganas.

-And-

In Re : XXX

... Petitioner

Mr. Gobinda Chandra

Mr. P. Mondal ...for the petitioner

Mr. Atif Ahmed Siddiqui ...for the State

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

Learned Advocate for the petitioner submits that the petitioner is in custody for 704 days without there being considerable progress in trial. He seeks for enlargement of the petitioner on bail. In support of his contention he relies on the decision of Hon'ble Supreme Court in ***Union of India -versus- K.A. Najeeb***, reported in ***(2021) 3 SCC 713***.

Opposing such prayer for bail learned Advocate for the State submits that the victim implicates the petitioner in her statement before the Magistrate as well as in Court. Three witnesses have already been examined and 15th May, 2025 is the date fixed for evidence of CSW 3. He seeks for dismissal of the application.

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

Perused the case diary and materials on record.

The victim at the time of incident was aged about 4 years. She alleges of penetrative sexual assault by the petitioner, which is also deposed by her before the Court. Considering the above materials and bearing in mind nature and gravity of the offence, this Court is not inclined to grant bail to the petitioner.

Accordingly, the bail prayer is rejected.

In *K.A. Najeeb (supra)* the alleged offence is under Unlawful Activities (Prevention) Act, 1967. The incarceration was more than 5 years. There were 276 witnesses left to be examined. These facts are distinguishable from the case at hand.

Be that as it may, bearing in mind the fundamental rights of the petitioner for speedy trial, the learned trial court is directed to expedite the trial to the fullest and conclude the trial at an early date without granting any unnecessary adjournment to either of the parties.

The prosecution is directed to produce witnesses as per schedule fixed by the trial court for examination of witnesses.

The parties are directed to cooperate in the trial for examination of the witnesses.

Parties are at liberty to communicate this order to the learned trial court.

The application for bail being **CRM (M) 276 of 2025** stands dismissed.

(Bivas Pattanayak, J.)