

02.07.2025
Item No.06.
Daily List
Court No.42
Mithun
(Rejected)

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

CRM (M) 643 of 2025

In re : An Application for bail under Section 483 of BNSS, 2023 corresponding Section 439 of the Code of Criminal Procedure, 1973 in POCSO Case No.143 of 2017 arising out of Bijpur P.S. Case No.454/2017 dated 17-08-2017 under section 363/370/376(2)(I)/120b/109/354 IPC and 6 of POCSO Act, 2012

-And-

In the matter of : Sekh Hidayat Ali

... Petitioner

Mr. Fazlur Rahman,
Md. Babul Hussain,
Mr. Mihinur Hossain

...for the petitioner

Ms. Sayanti Santra,
Mr. Kaustav Banerjee

... ...For the State

Learned Advocate for the petitioner submits that he is in custody for last 8 years without there being any progress in trial. He seeks for enlargement of the petitioner on bail due to delay in trial on the ground of violation of his rights enshrined under Article 21 of the Constitution of India. To buttress his contention, he relies on the following decisions of Hon'ble Supreme Court passed in ***Union of India versus K.A. Najeeb*** reported in ***(2021) 3 SCC 713; Sheikh Javed Iqbal @ Ashifaq Ansari @ Javed Ansari versus State of Uttar Pradesh*** reported in ***(2024) 8 SCC 293***, and ***Javed Gulam Nabi Shaikh***

versus State of Maharashtra and another reported in **(2024) 9 SCC 813.**

Learned Advocate for the State opposing such prayer submits that there are serious allegations against the petitioner of his involvement in the alleged offence which is depicted from the evidence of the minor victim. She also indicates that the defence has also sought for adjournment before the Trial Court during evidence. Further adjournment has been sought for on behalf of the petitioner due to change in the defence counsel representing the accused before the Trial Court on several dates which has also enured to the delay in trial. She informs the Court that 10 witnesses have already been examined and the prosecution intends to examine another 8 witnesses. She seeks for dismissal of the bail application.

Learned Advocate for the *de facto* complainant referring to the evidence of the victim submits that not only there are serious allegations against the petitioner of his involvement in the sexual offence upon the minor but also of pornography and taking obscene photographs of the victim. He also seeks for dismissal of the bail application.

Perused the case diary and materials on record.

Upon going through the evidence of the minor victim, it is found that victim clearly implicates the petitioner of his involvement in the alleged offence. The allegation appears to be serious one. In light of the above materials and the nature and gravity of the offence, I am not inclined to grant bail.

Accordingly, the prayer for bail of the petitioner is rejected.

So far as the argument advanced on behalf of the petitioner regarding delay in trial is concerned, upon going through the order-sheets placed before this Court by the learned Advocate for the petitioner, it is found that the defence has also sought for adjournment on several dates before the Trial Court and, therefore, delay cannot be attributed to the prosecution only.

In *K.A. Najeeb (supra)*, the alleged offence is under Unlawful Activities (Prevention) Act, 1976. There were 276 witnesses left to be examined and the incarceration of the accused was found to be more than 5 years. Thus, the facts are distinguishable from the case at hand.

In *Sheikh Javed Iqbal @ Ashifaq Ansari @ Javed Ansari (supra)*, the incarceration was for a period of 9 years and only 2 witnesses were examined. Thus, the facts are distinguishable from the case at hand.

In *Javed Gulam Nabi Shaikh (supra)*, the accused was in custody for 4 years without there being charges framed against him and prosecution intended to examine not less than 80 witnesses. Admittedly, in the present case, 10 witnesses have been examined and it is informed by the State that another 8 witnesses are to be examined. Thus the cited decision is distinguishable from the case at hand.

However, the Trial Court is directed to expedite the trial without granting any unnecessary adjournment and conclude the same at an early date.

Prosecution is directed to produce witnesses before the Trial Court on the schedule dates.

Parties are directed to cooperate in the trial before the Trial Court.

Accordingly, the application being ***CRM(M) 643 of 2025*** stands dismissed.

(Bivas Pattanayak, J.)