

22.05.2025
Item No.06.
Daily List
Court No.39
Mithun
(Rejected)

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

CRM (M) 418 of 2025

In re : An Application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Ausgram Police Station Case no.01 of 2025 dated 02.01.2025 under section 65(1)/105 of BNS Act 2023 read with section 6 of POCSO Act, 2012 with added section 5(3)/5(4) of the medical termination of pregnancy Act, 2012 with 27(1)/27(2)/29(1)/29(2)/30/33/34 of the West Bengal Clinical Establishment (and Transparency Registration Regulation) Act, 2017 (corresponding to Session Case (POCSO)-08 of 2025) passed by the Additional Session Judge, Second Court-cum-Judge Spl. Court under POCSO Act, Purba Burdwan.

-And-

In the matter of : Dr. Tapas Kumar Pal

... Petitioner

Mr. Soumik Ganguly,
Mr. Sunny Nandy,
Mr. Purnendu Maity,
Ms. Riya Das

...for the petitioner

Mr. Bibaswan Bhattacharya,
Ms. Suchismita Dutta

... ..For the State

Affidavit-of-service filed on behalf of the petitioner is taken on record.

Learned Advocate for the petitioner submits that the only allegation against the petitioner is of medical negligence. The petitioner had no role whatsoever in the offence of POCSO Act. The victim who after the incident got pregnant was brought to the nursing home of this petitioner who conducted the operation. However, subsequent thereto, due to certain medical

complications the victim expired. The petitioner as a Medical Practitioner tried to discharge his function. The petitioner is in custody for 142 days and upon completion of investigation, charge sheet has already been submitted in this case. He seeks for enlargement of the petitioner on bail.

Learned Advocate for the State opposing such prayer submits that the petitioner conducted the operation for terminating the pregnancy of the victim without having the MTP licence as required under the rules, which is depicted in the report of Department of Gynecology and Obstetrics, BMCH as well as the report of the CMOH, Purba Burdwan. Due to such negligence on the part of the petitioner, the minor victim died. He seeks for dismissal of the bail application.

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

Perused the case diary and materials on record.

The report of department of Gynecology and Obstetrics, BMCH shows that there is no adequate data to establish the authenticity of the *Star Nursing Home*, Budbud which is owned by the petitioner. Though the petitioner has a MBBS degree, but he has no additional qualification sufficient to conduct MTP as per MTP Act, 2021 which is violation of the standard of care. The report of the CMOH, Purba Burdwan also reveals that the petitioner was not having MTP licence. The Post Mortem report shows that the death was due to effects of haemorrhagic shock due to uterine perforation in case of per vagina instrumentation.

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 at this stage.

The application for bail being **CRM(M) 418 of 2025** stands dismissed.

Learned Advocate for the petitioner submits that the petitioner is suffering from carcinoma of prostate and is under treatment.

State files a report of Professor and Head Department of General Medicine, Burdwan Medical College dated 20th May, 2025 wherein it shows that the victim has been shifted to the General Ward and will be soon discharged with catheter in situ (as bladder control is poor).

In view of the above, the Superintendent, Burdwan Correctional Home is directed to extend all medical assistance to the petitioner as per requirement.

(Bivas Pattanayak, J.)