

In The High Court at Calcutta
Criminal Revisional Jurisdiction

Appellate Side

Coram:

The Hon'ble Justice Jay Sengupta

CRR 2183 of 2025

Subhadip Mondal

Vs.

State of West Bengal & Anr.

For the petitioner : Mr. Soumya Nag
Mr. Aditya Tiwari
Ms. Namrata Chatterjee

For the Opposite party no. 2 : Mr. Sudip Das
Mr. Asraf Mondal
Mr. M. Hossain

For the State : Mr. Arindam Sen
Ms. Mamata Jana

Heard on : 21.08.2025

Judgment on : 21.08.2025

Jay Sengupta, J.:- This is an application praying for transfer of Special POCSO Case no. 65 of 2024 arising out of Kakdwip Police Station Case No. 281 of 2024 dated 6.12.2024 under Sections 64(2)(b)(f)/65(1) and 351(3) of the BNS and Section 6(1) of the POCSO Act from the Court of learned

Special Judge-cum-learned Additional Sessions Judge, Alipore, South 24 Parganas to any other Court.

Report filed on behalf of the State is taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is an accused in this case. He has not been able to avail of legal assistance in the Court at Kakdwip as the brother of the alleged victim is the practising advocate there. That is why, no Advocate of that Court is representing the petitioner. Even after a counsel was engaged from the Legal Aid, he did not take any steps. In fact, he got an application for bail not pressed without consent. Even for getting certified copies of orders, the petitioner had to make representation before the Registrar General of this Court. The next date is fixed for framing of charge. In the interest of justice, the proceeding may be transferred to any Court. Reliance is placed on a decision of this Court passed in ***Sri Manab Biswas and another versus State of West Bengal and another reported at (2014) SCC Online Cal 21628***. There it was held that choice of an advocate is a fundamental right and the same cannot be denied. Reliance is also placed on a decision of this Court in ***Aptar Sardar versus State of West Bengal reported at (2008) SCC Online Cal 686***.

Learned counsel appearing for the de-facto complainant/opposite party opposes the prayer and submits that a counsel from the Legal Aid was offered to the petitioner, but the petitioner did not take such aid.

Learned counsel appearing for the State relies on the report and submits that most of the witnesses are from Kakdwip. Therefore, it would be easier if the proceeding is undertaken at Kakdwip itself.

Every accused, however serious the allegations be, has a right to a fair trial and the same cannot be guaranteed unless he gets adequate legal assistance and of his choice.

It appears that the petitioner refused any further Legal Aid help only after his application for bail was not pressed by the earlier counsel coming from the Legal Aid.

It also appears that for getting certified copies of orders, the petitioner had to approach the Registrar General of this Court.

It is the case of the petitioner that he is being denied a proper legal assistance from the learned advocates of that Court and this may create further impediment during the course of trial.

In view of the above, the petitioner has made out a good case for transferring the trial to another Court.

However, considering the fact that most of the witnesses are from Kakdwip, the trial should preferably be held at place, not too distant.

In view of the above and in the interest of justice, I direct that the trial of the case be transferred from the Court at Kakdwip to the Special Judge, POCSO Court at Diamond Harbour.

With the aforesaid observations and directions, the revisional application stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance with requisite formalities.

(Jay Sengupta, J.)