

08.08.2025  
Item no.3  
Court No.42  
ss  
(Dismissed)

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

**C.R.M.(M) 534 of 2025**

In Re: In Re:- An application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 corresponding to Section 439 of the Code of Criminal Procedure in connection with Hogolberia Police Station Case No.58 of 2022 dated 21.02.2022 under Section 376D of the Indian Penal Code read with Section 6 of the Protection of Children from Sexual Offences Act, 2012 and subsequently charge-sheet submitted on 27.03.2022 being Charge-sheet no.61 of 2022 under Section 376D of the Indian Penal Code and read with Section 6 of the Protection of Children from Sexual Offences Act presently pending before the learned Judge, Special Court under POCSO Act, Tehatta, Nadia in POCSO Case No.07 of 2022;

-And-

In Re : Bikram Sardar @ Mal.

.... Petitioner

Mr. Jaydeep Biswas  
Mr. Amanul Islam  
Mr. Sourav Mukherjee  
Mr. Kaushik Ghosh

...for the Petitioner.

Mr. Madhusudan Sur, Ld. APP  
Ms. Jonaki Saha

...for the State.

Service report filed by the State is taken on record.

Learned Advocate for the petitioner submits that on the alleged date of occurrence the victim was attending a marriage party. As per her statement she was gang raped. However, the medical examination report is not supportive of such fact excepting that she sustained few abrasions. The victim in her evidence states that she returned home in naked condition. It is very much suspicious as to how the father of the victim would produce the wearing apparel of the victim. Three co-accused

persons have been granted bail. The present petitioner stands on the same footing. The ingredients of Section 6 of POCSO Act are not attracted in the fact and circumstances of the present case. The petitioner is in custody for more than 3½ years and only four out of fifty-six witnesses have been examined. He seeks for enlargement of the petitioner on bail. To buttress his contention, he relies on the following decisions of the Hon'ble Supreme Court:

- (i) ***Union of India -versus- K. A. Najeed (Criminal Appeal No.98 of 2021);***
- (ii) ***Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari -versus- State of Uttar Pradesh (Criminal Appeal No.2790 of 2024);***
- (iii) ***Javed Gulam Nabi Shaikh -versus- State of Maharashtra & anr. (Criminal Appeal No.2787 of 2024).***

Opposing such prayer for bail, learned Advocate for the State submits that, as per the F.I.R., this petitioner and one Tapas Sardar are the principle accused. The victim has consistently implicated this petitioner during her medical examination and before the Magistrate as well as in Court during evidence. Therefore, this petitioner does not stand on the same footing as of the co-accused persons, who have been granted bail. Prayer for bail of one of the co-accused persons namely, Tapas Sardar, has been turned down by this Court on 1<sup>st</sup> May, 2025 in CRM (DB) 1049 of 2025. 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 victim has consistently implicated this petitioner of causing rape upon her before the Magistrate, during her medical examination as well as in Court. Thus, this petitioner does not stand on the same footing as of other co-accused persons. The allegations are of serious nature.

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.

In *Sheikh Javed Iqbal @ Ashifaq Ansari @ Javed Ansari (supra)*, the incarceration was for a period of 9 years and only 2 witnesses were examined.

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.

Thus, the facts of the decisions are distinguishable from the case at hand.

Considering the above incriminating 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 of the petitioner is rejected.

The learned trial court is directed to expedite the trial to the fullest extent 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) 534 of 2025** stands dismissed.

**(Bivas Pattanayak, J.)**