

15.
03-06-2025
(ct. no.06)
pp/tm.
(allowed)

CRM (M) 589 of 2025

In re: An application for bail under Section 483 of the
Bhartiya Nagarik Suraksha Sanhita 2023 in
connection with Kultali Police Station Case No.346 of
2023 dated 26-05-2023 under Sections 376DA IPC
and under section 6 of the POCSO Act

- A n d -

In the matter of : Sanjit Bag @ Sanjib Bag

.... Petitioner.

Mr. Soumya Nag
Mr.Rajdeep Sengupta

... For the Petitioner.

Mr. Pravash Bhattacharya,
Mr. Prakash Mishra

... For the State.

1. Notice served to the de facto complainant be taken on record.

2. It is said on behalf of the accused-petitioner that he is absolutely innocent and has been falsely entangled with the crime. He is in custody since 26.5.2023. Charge was framed by the trial court on 26.4.2024 and evidence taking process was started and the de facto complainant was examined in part on 20.12.2024. Thereafter as the de facto complainant did not turned up, the learned trial court issuedailable warrant of arrest against the de facto complainant on 17.5.2024. There are 21 witnesses named in the charge sheet. The other two FIR named accused persons were enlarged on bail by the learned trial court. It is submitted that no purpose will be served by detaining this accused petitioner behind the bar as there is no immediate chance of conclusion of the trial. In support of his contention learned advocate for the petitioner placed reliance upon decisions rendered by the Hon'ble Apex court as well as upon the decisions passed by this court wherein it is categorically stated that personal liberty of a citizen is precious and no under-trial can be detained in the custody for indefinite period. So, it is prayed that this accused petitioner may be enlarged on bail.

3. Learned advocate for the State raises objection by submitting that there are sufficient incriminating materials in the case diary which reflects about *prima facie* involvement of this petitioner in the alleged offence. The offence involved in this case is serious in nature and if at this stage this accused petitioner is enlarged on bail then there is every possibility of hampering of the progress of the trial.

4. I have considered the rival submissions advanced by both the parties and have perused the materials placed before this court at the time of hearing. I have gone through the decisions rendered by the Hon'ble Apex Court as well as the decisions rendered by this court.

5. This accused-petitioner is in custody for more than two years and charge was framed by the trial court on 26.4.2024 and thereafter evidence taking process was started and the de-facto complainant was examined in part on 20.12.2024. Thereafter this de facto complainant did not turn up and bailable warrant of arrest was issued against the witness. It is admitted position that this accused-petitioner is in custody since for a considerable period of time. It is time again observed by the Hon'ble Apex Court that failure to conclude the trial within a reasonable time resulting in prolonged incarceration militates against the precious fundamental right guaranteed under Article 21 of the Constitution of India and as such no one can be detained behind the bar for an indefinite period. In this case this accused-petitioner is in custody for more than two years and there is no immediate chance of conclusion of trial. Prolonged incarceration of under-trial prisoners violates the constitutional principle of dignity and liberty.

6. In view of the above circumstances I am of the opinion that this accused shall be granted bail solely on the touch stone of article 21 of the constitution of India without touching the merits of this case.

7. Accordingly, I direct that the petitioner, namely, **Sanjit Bag @ Sanjib Bag**, shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of learned Judge, Special court under POCSO Act cum learned Additional Sessions Judge, 1st Court, Baruipur, South 24 Parganas on condition that the petitioner shall appear before the trial Court on every date of hearing and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever and on further condition that the petitioner shall not leave the jurisdiction of Kultai PS except for attending court proceedings and medical exigency.

8. In the event the petitioner fails to comply with any of the conditions stipulated above, the trial Court shall be at liberty to cancel the bail in accordance with law without further reference to this Court.

9. The application for bail is, thus, **allowed**.

10. All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

11. Criminal Section is directed to supply certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Prasenjit Biswas, J.)