

19.
03-06-2025
(ct. no.06)
pp/BM
(Allowed)

CRM (M) 599 of 2025

In re: An application for bail under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 in connection with Tehatta Police Station Case No.645 of 2021 dated 01-12-2021 under Sections 376AB of IPC read with Section 6 of the POCSO Act, 2012.

- A n d -

In the matter of : Golam Mondal @ Golam Hossain Mondal
.... Petitioner.

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

... For the Petitioner.

Mrs. Sukanya Bhattacharjee,
Ms. Puspita Saha

... For the State.

Mr. Manas Kumar Das
Mr. Aritra Kumar Thokdar

... for the defacto complainant

1. Affidavit of service filed on behalf of the accused petitioner be taken on record.
2. It is said on behalf of the accused petitioner that he is in custody for more than 4 ½ years. It is further said that after framing of charge by the trial court the evidence taking process has been started and most of the witnesses including the vulnerable witnesses have already been examined by the side of the prosecution. So, no purpose will be served by detaining further of this accused petitioner behind the bar. Moreover, any person could not be detained in the custody for indefinite period without providing speedy trial to him. So, this accused petitioner may be released on the touchstone of Article 21 of the Constitution of India.

3. Learned advocate for the State raises objection by submitting that the offence involved in this case is serious in nature and the trial is on the verge of completion and only the Doctor and the Investigating Officer are yet to be examined and if at this stage this accused petitioner is released on bail then there is every possibility of hampering of the progress of the trial. So, it is said that the petition for bail filed by this accused petitioner may be rejected.

4. The defacto complainant is represented by the learned advocate. He also prays for rejection of the bail prayer filed by the accused petitioner.

5. I have considered the rival submissions advanced by both the parties and have consulted the materials placed before this court at the time of hearing.

6. The instant case was started on the basis of complaint lodged by the defacto complainant by stating that the accused petitioner allegedly committed the offence which comes under the provision of POCSO Act. It appears that this accused petitioner is in custody for more than 4 ½ years and after framing of charge the trial has been commenced and most of the witnesses including vulnerable witnesses were examined by the said prosecution. It is told that only the Doctor and the Investigation Officer are yet to be examined.

7. This court is not unmindful that liberty of an accused who is facing prolong trial deserves attention of the court and prolonged incarceration of the under trial prisoner violates the constitutional principle of dignity and liberty. The prolonged

incarceration violates the constitutional principles as enshrined under Article 21 of the Constitution of India. So, without touching to the merits of the case solely on the touchstone of the Article 21 of the Constitution of India the bail prayer filed by this petitioner is considered and allowed.

8. Accordingly, I direct that the accused petitioner, namely, **Golam Mondal @ Golam Hossain Mondal**, 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 ACJM, Tehatta, Nadia with a condition that the petitioner shall not make any threat, promise and induce to any of the charge sheeted witness and he shall make himself available before the trial Court on each and every date of hearing and on further condition that the petitioner shall not enter the jurisdiction of Tehatta P.S except for the purpose of attending the court and for medical exigency and provide the address where he would reside if on bail to the investigating agency and the trial court.

9. 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.

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

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

12. 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.)