

03.07.2025
Item no.8
Court No.42
ss
(Dismissed)

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

C.R.M.(M) 797 of 2025

In Re:- An Application under Section 483 of the Bharatiya
Nagarik Suraksha Sanhita, 2023 corresponding to Section 439
of the Criminal Procedure Code, 1973 in connection with
Beldanga Police Station Case No.639 of 2023 dated 20.08.2023
under Section 376AB/506 of the Indian Penal Code read with
Section 6 of the Protection of Children from Sexual Offences Act,
2012 in connection with C. Spl. No.85 of 2023 pending before
the learned Special Judge, POCSO Court, Berhampore,
Murshidabad.

-And-

In Re : XXX

... Petitioner

Mr. Sabir Ahmed
Mr. Tasnim Ahmed
Mr. Dhiman Banerjee
Mr. Quazi Ezaz

...for the petitioner

Mr. Rana Mukherjee, Ld.APP
Ms. Pallavi Priyadarshee

...for the State

Ms. Afreen Begum

... for the *de facto* complainant

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

Learned Advocate for the petitioner submits that the
statement of the victim is not supported by the medical
examination report. Out of village rivalry the petitioner has been
falsely implicated. The petitioner is in custody for more than 1
year 10 months without there being considerable progress in
trial. The petitioner is also suffering from mental illness
particularly Schizophrenia. He seeks for enlargement of the
petitioner on bail.

Opposing such prayer for bail, learned Advocate for the State candidly submits that the medical examination report is inconclusive. Be that as it may, the minor victim aged about 7½ years has consistently stated of the incident of sexual assault before the Magistrate as well as before the Court during her examination. He seeks for dismissal of the bail application.

Similar submission is also advanced on behalf of the *de facto* complainant that the minor victim has clearly implicated the petitioner. She also seeks for dismissal of the application for bail.

Perused the case diary and materials on record.

The minor victim at the time of incident was more than 7 years. In her statement before the Magistrate as well as in Court she depicts of two incidents of penetrative sexual assault and states of the involvement of the petitioner in the alleged offence. Absence of injury in medical examination report cannot improbabilise the statement made by the victim before the Magistrate as well as in Court of such sexual assault. Considering the above 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 is rejected.

The learned trial court is directed to expedite the trial to the fullest 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 Superintendent of Berhampore Central Correctional Home is directed to provide medical assistance as per requirement of the petitioner.

The application for bail being **CRM (M) 797 of 2025** stands dismissed.

(Bivas Pattanayak, J.)