

17.07.2025
Item No.06.
Daily List
Court No.42
Mithun
(Rejected)

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

CRM (M) 847 of 2025

In Re:- An application for bail under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023 corresponding to erstwhile
Section 439 of the Code of Criminal Procedure, 1973 in
connection with Special Case No.49 of 2024 arising out of
Bidhannagar Women Police Station Case No.09 of 2024 dated
09.04.2024 under Sections 376/323/506/509/34 of the Indian
Penal Code and Section 6 of the POCSO Act, pending before the
learned Judge, Special POCSO Court, Barasat, North 24-
Parganas;

-And-

In the matter of : Sk. Shoaib

... .. Petitioner (in Jail)

Mr. Sudipto Maitra, Sr. Adv.,
Mr. Samiran Mandal,
Mr. Abhinaba Dan,
Mr. Nitish Samanta

... .. For the Petitioner

Mr. Sourav Bhattacharyya,
Mr. Sarthak Burman

...for the *de facto* complainant

Ms. Sayanti Santra,
Mr. Sharequl Haque

...for the State

Petitioner renews his prayer for bail.

Report filed by the State in terms of order dated 3rd July,
2025 is taken on record.

Learned Senior Advocate appearing for the petitioner
submits that the victim habitually and in purposive manner has
been filing false and frivolous cases one after the other against
the petitioner and others. Prior to filing of the present FIR,

previously on 27th November, 2023, a case was initiated against the petitioner and his father on the allegation of outraging of modesty, wrongful confinement, hurt and threatening. The present FIR alleges of an incident which took place in the year 2022. However, it is peculiar to note that the incident of the year 2022 has not been mentioned in the FIR registered in the year 2023 which clearly shows the falsity in the allegation made in the written complaint. There is discrepancy in the age of the victim. The petitioner is in custody for more than 6 months and upon completion of investigation, charge-sheet has already been submitted in this case. He seeks for enlargement of the petitioner on bail. To buttress his contention, he relies on the decision of the Hon'ble Supreme Court passed in ***Naval Dipak Kumar Thakkar versus State of Gujarat*** reported in **2024(3) SCC 784**.

Opposing such prayer for bail, learned Advocate for the State submits that all such grounds taken in the present application has been considered and turned down by this Court in earlier bail application being CRM(M) 24 of 2025 on 17th April, 2025. The statement of the victim clearly implicates this petitioner. He seeks for dismissal of the bail application.

Learned advocate for the *de facto* complainant submits that as regarding the dispute raised of the age of the victim, the documents of the victim would show that she was a minor at the time of incident. Be that as it may, it was left open to the petitioner to seek for discharge before the learned Trial Court on such ground at the stage of framing of charge which he failed to

avail of. Considering the materials on record, charges have been framed under the POCSO Act. The victim implicates the petitioner. He seeks for dismissal of the bail application.

Perused the case diary and materials on record.

By order dated 3rd July, 2025, since it was argued on behalf of the petitioner that the victim was major at the time of incident, this Court directed the State to collect such report with regard to the date of birth of the victim in the Aadhar Card.

In compliance thereof, report has been submitted furnished by the concerned authority.

It is found from the said report that upon ascertainment of the Aadhar Data Base, the date of birth of the victim is 14th October, 2005. Therefore, primarily it is found that victim at the time of incident was a minor. The earlier bail application being CRM(M) 24 of 2025 was dismissed with the following observation:

“It is found from the statement of the victim that she was offered cold drinks by the petitioner and upon drinking the same she became semiconscious and thereafter she was taken to a hotel where the petitioner committed sexual assault upon her which has also been videographed. There are also allegations of threats and blackmailing against the petitioner and of coercing the victim to transfer money. The materials show that a considerable amount has been transferred.”

The allegations appear to be grave one. No such new circumstances has been pressed into service in the instant application.

In the cited decision of *Naval Dipak Kumar Thakkar (supra)* the petitioner was in custody for 8 months without charges been framed. Whereas in the present case, it is informed that charges have already been framed and 29th July, 2025 is the date fixed

for examination of the victim. Moreover, the offences of the cited decision is not under POCSO Act. Hence, the facts are distinguishable.

In light of the above discussion, I am not inclined to enlarge the petitioner on bail.

Accordingly, the prayer for bail of the petitioner is rejected.

However, the Trial Court is directed to expedite the trial to the fullest extent and conclude the same at an early date without granting any unnecessary adjournment to either of the parties.

Prosecution is directed to produce witnesses before the Trial Court on the schedule dates fixed for examination of witnesses.

Parties are directed to cooperate in the trial before the Trial Court.

The application being **CRM(R) 847 of 2025** stands dismissed.

(Bivas Pattanayak, J.)