

04.08.2025
M/L 6
Court No.42
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**HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION**

C.R.M.(M) 942 of 2025

In Re:- An application under Section 439 of the Code of Criminal Procedure corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Hogolberia Police Station Case No.58 of 2022 dated 21.02.2022 under Section 376D of the Indian Penal Code, 1860 and 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, 1860 and read with Section 6 of the Protection of Children from Sexual Offences Act, 2012 presently pending before the learned Judge, Special Court under POCSO Act, Tehatta, Nadia.

And

In Re : **Bhim Mal**

.... **Petitioner**

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

..... for the petitioner

Mr. Binoy Kr. Panda,
Ms. Chandreyi Dutta

... for the State

Learned Advocate for the petitioner submits that the victim on the date of occurrence was attending a marriage party. It is alleged that she was gang raped, however, the medical evidence is not supportive of such facts excepting she sustained few abrasions. The victim in her evidence stated that she returned home in naked condition. It is very much suspicious as to how the father of the victim could produce the wearing apparels. The ingredients of Section 6 of the POCSO Act are not attracted in the facts and circumstances of the present case. The petitioner stands on the same footing as that of the other two co-

accused persons, who have been granted by bail by this Hon'ble Court. The petitioner is in custody for about 3½ years and four out of 54 witnesses have been examined. He seeks for enlargement of the petitioner on bail. To buttress his contention, he relies on an unreported decision of ***Criminal Appeal No. 2790 of 2024 (Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari -versus- State of Uttar Pradesh)***.

Learned Advocate for the State submits that the present petitioner stands on the same footing as that of other two co-accused persons, who have been granted bail by this Hon'ble Court. However, he opposes the prayer for bail since the charges are grave.

Despite service, none appears on behalf of the *de facto* complainant/victim.

Perused the case diary and the materials on record.

It is found that two accused persons namely, Kartik Mal and Rintu Sardar @ Rintu Mal have been granted bail by this Hon'ble Court in CRM (DB) 310 of 2025 and CRM (DB) 1049 of 2025 respectively. The present petitioner stands on the same footing as that of two other co-accused persons, who have been granted bail. The petitioner is in custody for 3½ years and 4 out of 54 witnesses have been examined so far. Without touching the merits of the case, only on touchstone of Article 21 of the Constitution of India, I am inclined to grant bail to the petitioner on stringent conditions.

Accordingly, the petitioner, namely, **Bhim Mal** 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 a local, to the satisfaction of the learned Judge, Special Court under POCSO Act, Tehatta, Nadia. The petitioner shall appear before the trial court on each and every day of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973/Section 355 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever. The petitioner shall meet the Inspector-in-Charge of Hogolberia Police Station once in a fortnight, until further orders. The petitioner shall not enter within the territorial jurisdiction of Hogolberia Police Station except for the purpose of attending court proceedings and for reporting to the Inspector-in-Charge of the concerned Police Station, until further orders. The petitioner shall furnish the addresses where he shall presently reside before the learned trial court, the investigating officer and the Inspector-in-Charge of the police station under whose jurisdiction he shall presently reside.

In the event the petitioner fails to comply with any of the conditions as stated above, the learned Trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

It is made clear that the observation made hereinabove is only for the sake of disposal of this application.

Accordingly, the application for bail being **CRM (M) 942 of 2025** is disposed of.

(Bivas Pattanayak, J.)