

29.07.2025
Item no.8
Court No.42
ss
(Allowed)

**HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION**

CRM (M) 1015 of 2025

In re : An Application for bail under Section 439 of the Code of Criminal Procedure, 1973 read with Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Nabadwip Police Station Case No.800 dated 28.11.2024 under Sections 137(2)/14(3) of the Bharatiya Nyaya Sanhita, 2023, subsequently Charge Sheet submitted under Sections 137(2)/140(3)/64 of the Bhartiya Nyaya Sanhita, 2023 and Section 6 of the Protection of Children from Sexual Offences Act, 2012, now pending as Special Case No.POCSO 35/25, before the learned Additional Sessions Judge, 2nd Court, (POCSO Act), Krishnanagar, Nadia

-And-

In the matter of : XXXXX

... .. Petitioner

Ms. Sutanuka Chowdhury

... For the Petitioner

Mr. Saibal Bapuli, Ld.APP,
Mr. Sujan Chatterjee

... ..For the State

Mr. Sahil Kabir
Mr. Mustafa Seikh

... for the *de facto* complainant

Service report filed on behalf of the State is taken on record.

Learned Advocate for the petitioner submits that the victim and the petitioner had previously love affairs and the victim left her house out of her own accord and they married. There are no such allegations of sexual assault. The ground of arrest has not been intimated to the petitioner. The petitioner is in custody for 125 days and after completion of investigation, charge-sheet has already been submitted. She seeks for enlargement of the petitioner on bail.

Learned Advocate for the State, opposing such prayer for bail, submits that the victim was taken away by the petitioner to Kerala wherefrom the victim was recovered. He seeks for dismissal of the bail application.

Learned Advocate for the *de facto* complainant, opposing such prayer for bail, submits that the consent of a minor is not a consent. The petitioner took away the victim. The marriage between the petitioner and the victim is illegal and is solemnized in contravention to the Prohibition of Child Marriage Act. He seeks for dismissal of the bail application.

Perused the case diary and the materials on record.

The victim made two statements before the Magistrate. The earlier statement of the victim does not state of any sexual assault or of kidnapping. The subsequent statement of the victim before the Magistrate shows that the victim left her house and boarded the train along with the petitioner for going to Kerala. However, there are no such allegations of any forcible sexual assault. The victim has refused to undergo medical examination. The petitioner is in custody for 125 days and upon completion of investigation, charge-sheet has already been submitted in this case. The question whether in all cases the ground of arrest has to be informed to the accused is in consideration before the Hon'ble Supreme Court in ***Mihir Rajesh Shah -versus- The State of Maharashtra & Anr [Special Leave to Appeal (Crl) No. 17132/2024]***, the decision of which is reserved by the Hon'ble Supreme Court. As such, this Court recuse from making any observation in this regard.

Considering the above, I am inclined to grant bail to the petitioner on stringent conditions.

Accordingly, the petitioner 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, Krishnagar, 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 Nabadwip Police Station once in a fortnight, until further orders. The petitioner shall not enter the jurisdiction of Nabadwip Police Station except for the purpose of attending court proceedings and reporting to the Inspector-in-Charge of police station. The petitioner shall furnish the address where he shall presently reside before the learned trial court, the investigating officer and the Inspector-in-Charge of the concerned 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) 1015*** of **2025** is disposed of.

(Bivas Pattanayak, J.)