

19.08.2025
Item no.4(DL)
Court No.42
srm
(Rejected)

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

C.R.M.(M) 1287 of 2025

In Re: An application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 corresponding to Section 439 of the Code of Criminal Procedure, 1973 in connection with ST Case No. 12(11) of 2022, CIS Registration No. 149/2022 arising out of Amdanga Police Station Case No.382 of 2022 dated 26.07.2022 under Section 376AB of the Indian Penal Code and Section 6 of POCSO Act thereafter charge sheet being charge sheet No. 462/2022 dated 13.09.2022 submitted under Section 376AB of the Indian Penal Code read with Section 6 of POCSO Act and now pending before the learned Judge, Special POCSO Court, Barasat, North 24 Parganas.

And

In the matter of : **Rafik Ali @ Rafikul Islam @ Rafikul Ali**
.... Petitioner

Mr. Mayukh Mukherjee,
Mr. Abhijit Singh,
Mr. Koustav Lal Mukherjee,
Ms. Sarmistha Basak

...for the Petitioner.

Mr. Avishek Sinha,
Ms. Afreen Begum

... for the State.

Ms. Nandini Chatterjee

...for the *de facto* complainant.

1. Status report filed by the State is taken on record.
2. Petitioner renews his prayer for bail.
3. Learned Advocate for the petitioner submits that while rejecting the bail prayer of this petitioner on 30th September, 2024 in CRM (DB) 2806 of 2024, this Hon'ble Court directed the trial court to expedite the trial and hold the same, if necessary, on a day-to-day basis so that the trial is concluded on an early date and positively within

six months from the next date fixed for recording evidence. However, subsequent thereto on several dates the prosecution failed to produce witnesses. The petitioner is in custody for more than three years without there being any considerable progress in trial. He seeks for enlargement of the petitioner on bail on the ground of delay in trial.

4. Opposing such prayer for bail, learned Advocate for the State submits that there are sufficient incriminating materials against the petitioner of penetrative sexual assault upon a 6-year-old child which is evident from the statement of the victim as well her deposition in court. He informs the Court that the prosecution intends to examine another four witnesses, namely, CSW 17 Dr. Dalia Roy (Dasgupta), Medical Officer, CSW 18 Dr. Sudip Sarkar, Medical Officer, CSW 20 Md. Asif Khan, Recording Officer and seizure witness and CSW 21 Jitendra Singha Roy, Investigating Officer and the next date is fixed on 3rd September, 2025 and 4th September, 2025 respectively for examination of prosecution witness. He seeks for dismissal of the bail application.
5. Learned Advocate for the *de facto* complainant also submits in the similar fashion. She indicates that in the event the petitioner is convicted he will have to suffer imprisonment for not less than 20 years which may extend to life. The offence is heinous. She seeks for dismissal of the bail application.
6. Perused the case diary and the materials on record.

7. The victim, at the time of incident, was 6 years old. The victim in her statement before the Magistrate as well as in her deposition in court clearly implicates the petitioner of penetrative sexual assault. Considering such incriminating materials and the nature and gravity of the offence, I am not inclined to grant bail to the petitioner.
8. Accordingly, the prayer for bail of the petitioner is rejected.
9. However, as per the report of the State the prosecution intends to examine four witnesses, namely CSW 17, CSW 18, CSW 20 and CSW 21. In such event, the learned Trial Court is directed to expedite the trial to the fullest extent and conclude the same at an early date without granting unnecessary adjournments to either of the parties.
10. Prosecution is directed to produce the witnesses on the scheduled dates fixed for examination of the witnesses.
11. Parties are directed to cooperate with the trial court during examination of the witnesses.
12. Parties are at liberty to communicate this order to the learned trial court.
13. The application for bail being **CRM (M) 1287 of 2025** stands dismissed.

(Bivas Pattanayak, J.)