

11.09.2025
Item no.3
Court No.42
ss
(Allowed)

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

C.R.M.(M) 1531 of 2025

In Re: An Application for Bail under Section 439 of Code of Criminal Procedure, 1973 corresponding to Section 483 of the Bhartiya 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 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 read with Section 6 of the POCSO Act now pending before the learned Judge, Special Court under POCSO Act, Tehatta, Nadia in POCSO Case No. 07 of 2022.

-And-

In the matter of : Tapas Sardar @ Mal

.... Petitioner

Mr. Jaydeep Biswas
Mr. Amanul Islam
Mr. Sourav Mukherjee
Mr. Gourav Roy

...for the Petitioner

Mr. Partha Pratim Das
Mr. Tapas Kumar Saha

... for the State

1. The petitioner renews his prayer for bail.
2. Learned Advocate for the petitioner submits that the petitioner is in custody for more than 3 years 7 months. The victim on the date of occurrence was attending a marriage party. It is alleged that she was gang raped. However, the medical examination report is not supportive of such fact excepting that she sustained few abrasions. After rejection of bail application of the petitioner on 1st May, 2025 the victim has been examined before the learned Trial Court on 22nd May, 2025. Although the victim, in her deposition in court,

states the name of one Bikram Sardar @ Mal to be the principal perpetrator, yet she does not name the present petitioner specifically. The victim states that rest of four accused also committed gang rape upon her. Out of the said four accused, three have already been enlarged on bail. The present petitioner stands on the same footing. He seeks for enlargement of the petitioner on bail.

3. Learned Advocate for the State, opposing such prayer for bail, submits that there are specific allegations against this petitioner of his involvement in the gang rape. He seeks for dismissal of the bail application.
4. Despite service none appears on behalf of the *de facto* complainant.
5. Perused the case diary and the materials on record.
6. The victim has been examined after the bail application of the petitioner was rejected on 1st May, 2025. The bail prayer of the petitioner was turned down previously since he was named by the victim before the magistrate and the attending doctor. Be that as it may, the victim in her deposition in Court though specifically implicates one Bikram Sardar @ Mal, but does not name this petitioner. She states of rest four accused of committing gang rape upon her. It is found that out of said four accused three have already been granted bail. The petitioner is in custody for more than 3 years 7 months. Considering the above, I am inclined to grant bail to the petitioner on stringent conditions.
7. Accordingly, the petitioner namely, **Tapas Sardar @ 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 subject to the following conditions.

- (i) 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;
- (ii) The petitioner shall meet the Inspector-in-Charge of Hogolberia Police Station once in a fortnight, until further orders.
- (iii) The petitioner shall not enter the jurisdiction of Hogolberia Police Station except for the purpose of attending court proceedings and reporting to the Inspector-in-Charge of concerned police station.
- (iv) 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.

- 8. 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.
- 9. It is made clear that the observation made hereinabove is only for the sake of disposal of this application.

10. Accordingly, the application for bail being ***CRM (M) 1531 of 2025*** is disposed of.

(Bivas Pattanayak, J.)