

26.02.2025
ss/ct 28
sl no.5

C.R.R. 4015 of 2024

In Re : An application under Section 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

And

In Re : Saikat Bhattacharjee Petitioner

Mr. Abhijit Kumar Adhya
Mr. Subir Kr. Bhattacharjee

... for the petitioner

1. Petitioner has assailed order dated 21.08.2024 whereby his prayer for discharge from the case had been turned down.
2. Prosecution alleged on 4.11.2022 the petitioner who was a clerk in a girls' school had misbehaved with three minor students of Class V of the said school.
3. Learned Counsel contends that the petitioner is an ailing person, who is on dialysis. The incident is said to have occurred while bags were distributed to students and a large number of persons were present. Hence, allegations of sexual assault is patently absurd. Statements of witnesses show the nature of sexual assault has improved during investigation.
4. Learned trial Judge failed to consider these aspects and dismissed the discharge petition.
5. I have considered the materials on record including the allegations in the charge-sheet, which is placed before me during hearing.
6. From the materials on record it appears the petitioner was a clerk of the school. On the fateful day, he sexually assaulted three

minor students of Class V. Their guardians raised hue and cry and the matter was informed to the police by school authorities.

7. During investigation the minors have made statements before Magistrate which implicate the petitioner.

8. Learned Counsel strenuously argues that the statements are at variance with other statements before police and the victims were not medically treated.

9. I do not find much force in these submissions. Uncontroverted statements of the minor victims before Magistrate implicate the petitioner.

10. It would be unwise to hold a mini trial and test the veracity of these statements on the anvil of other evidence on record. Such exercise is best left to the trial court after all evidence has been adduced.

11. Sexual assault may be proved through oral versions of the victims and corroborated by other evidence on record. Failure to medically examine the victims may not always be fatal.

12. In light of the aforesaid discussion, I am of the opinion no case for interference is made out.

13. Petitioner is at liberty to canvass his defences during trial in accordance with law.

14. Accordingly, the revision petition is disposed of.

(Joymalya Bagchi, J.)