

27.01.2025
Item no. 23.
Court No.29.
AB
(Allowed)

CRM (DB) 3889 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure, 1973/Under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Mograhat Police Station Case No.04 of 2023 Dated 02.01.2023 under Section 363/365/367/368/369/370/370A(2)/372 of the Indian Penal Code read with Section 5 of the Immoral Traffic Prevention Act

And

In the matter of : Abadulla Mondal @ Abdulla Mondal

.....Petitioner.

Mr. Bibaswan Bhattacharya
Mr. Supriyo Sasmalfor the Petitioner.

Mrs. Anasuya Sinha, Id. APP
Mr. Sourat Nandyfor the State.

Dictated by Arijit Banerjee, J.

1. From the Affidavit of Service filed in Court today, it appears that the victim girl has received notice of this bail application. In spite of service, nobody appears for the defacto complainant/victim girl.
2. Status report filed by the State, be kept with the records.
3. From the report, we find that the prosecution intends to examine 12 witnesses out of 25 charge sheet named witnesses. Only 2 witnesses have been examined so far. 10 more witnesses are intended to be examined as per the report. This is also tentative.

4. Therefore, we do not see that the trial is likely to conclude on an early date. The petitioner is in custody for about one year and ten months. We cannot be oblivious of the fundamental right of an under-trial to personal liberty and speedy disposal of the trial.
5. We have also considered the deposition of the victim lady. Prima facie, she does not implicate the petitioner.
6. Therefore, both on merits and also considering the delay in progress of the trial, we are inclined to allow the petitioner's prayer for bail.
7. Accordingly, we direct that the petitioner, namely **ABADULLA MONDAL @ ABDULLA MONDAL** shall be released on bail upon furnishing a bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the POCSO Act at Diamond Harbour, and on further conditions that he shall remain within the jurisdiction of the Diamond Harbour Police Station and shall report to the Officer-in-Charge of the Diamond Harbour Police Station once a week until further orders.
8. The petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence and/or commit any cognizable offence in any manner whatsoever.

9. In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.
10. The application for bail is, accordingly, allowed.
11. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)