

10.01.2025
Item no. 59.
Court No.29.
AB
(Allowed)

CRM (DB) 3952 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 Manikchak Police Station Case No.842 of 2023 Dated 12.10.2023 under Sections 341/328/354D/506/34 of the Indian Penal Code read with Section 10/14 of the POCSO Act

And

In the matter of : Nijam Momin

.....Petitioner.

Mr. B. Bhattacharya,
Mr. H. Rahamanfor the Petitioner.

Mr. Suman De,
Mr. Samarjit Balialfor the State.

Dictated by Apurba Sinha Ray, J.

1. Affidavit of service filed in Court today, be kept with the records. In spite of service, nobody appears for the victim/defacto complainant.
2. The petitioner claims that he has been languishing in judicial custody for ten months. Investigation is complete and there is nothing significant against the present petitioner. The petitioner has been falsely implicated due to village rivalry. As the investigation is complete, he may be granted bail on any condition.
3. Learned Advocate for the State has opposed the bail prayer. According to him, there are sufficient incriminating materials against the present petitioner.

4. We have gone through the materials on record. We find that though one child of the defacto complainant refused medical examination, the medical examination report of another child was done, but there was no incriminating material against the present petitioner. The defacto complainant has also refused to undergo medical examination. Considering the period of detention and also the materials available in the case diary, we are inclined to allow the petitioner's prayer for bail.
5. Accordingly, we direct that the petitioner, namely **NIJAM MOMIN** 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 Malda, and on further conditions that he shall remain within the jurisdiction of English Bazar Police Station and shall report to the Officer-in-Charge of English Bazar Police Station once in a week until further orders.
6. 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.

7. 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.
8. The application for bail is, accordingly, allowed.
9. 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.)