

24.
30-01-2025
(ct. no.29)
debajyoti
(allowed)

CRM (DB) 4000 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure/483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Manikchak Police Station Case No.71 of 2021 dated 23-02-2021 under Section 6 of the Protection of Children from Sexual Offences Act read with Section 307 of the Indian Penal Code.

- A n d -

In the matter of : Mukesh Mahaldar @ Mangal
.... Petitioner.

Mr. Kalidas Saha,
Ms. Mandira Mandal,
Ms. Khushi Mollick

... For the Petitioner.

Mr. Partha Pratim Das,
Mr. Subhasish Datta

... For the State.

Dictated by Arijit Banerjee, J.

1. From the Affidavit-of-Service filed in Court today, which is taken on record, it appears that the victim/defacto complainant has received notice of this bail application. In spite of service, nobody appears on behalf of the victim/defacto complainant.

2. Status report filed by the State be kept with the records. It appears from the report that the prosecution shall

examine all the remaining nine witnesses. Six witnesses have been examined so far.

3. The petitioner is in custody for about 3 years 7 months. The delay in trial does not appear to be attributable to the petitioner to any extent.

4. Learned State advocate says that there is sufficient incriminating material/evidence against the petitioner. That may be so. That would not justify incarceration of the petitioner for an indefinitely long period of time. Nobody stands in the way of the prosecution securing the petitioner's conviction and punishing him in accordance with law.

5. Seeing that an early conclusion of the trial is a distant possibility and considering the already prolonged detention of the petitioner, without touching the merits of the case, solely on the touchstone of Article 21 of the Constitution of India, we feel impelled to allow the petitioner's prayer for bail.

6. Accordingly, we direct that the petitioner, namely, **Mukesh Mahaldar @ Mangal**, shall 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 local, to the satisfaction of learned Judge, Special Court under POCSO Act, ADJ, 2nd Court, Malda. The petitioner shall appear before the learned trial Court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever. The petitioner shall remain within the territorial limits of English Bazar Police Station except for the purpose of attending the court proceedings and shall appear before the Officer-in-Charge/Inspector-in-Charge of the English Bazar Police Station once in every week, until further orders. The

petitioner shall, through his learned advocate, inform the learned trial Court, Manikchak Police Station and English Bazar Police Station his current local address at English Bazar where he shall be residing while on bail.

7. In the event the petitioner fails to adhere to any of the conditions stipulated above without any justifiable cause, the learned trial Court shall be at liberty to cancel the bail in accordance with law without further reference to this Court.

8. The application for bail is, thus, **allowed**.

9. All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

10. Criminal Section is directed to supply certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)