

07.02.2025
Item no.18.
Court No.29.
S. De
(Allowed)

CRM (DB) No. 4150 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with **Kultali Police Station Case No. 390 of 2019 under Sections 363/365/368/506 and 376(2)(i) of the Indian Penal Code under Sections 6** of the Protection of Children from Sexual Offences Act (POCSO), 2012 and **Section 9 and 10 of Prohibition of Child Marriage Act.**

And

In the matter of : Biswajit Mondal.

.....Petitioner.

Mr. Sanjay Banerjee,
Mr. Joydeep Bhattacharyya,for the Petitioner.

Mr. Iqbal Kabir,
Ms. Rajashree Tah,for the State

Dictated by Arijit Banerjee, J.

1. Report filed by the State be kept with the records.
2. The report says that 3 out of 14 chargesheet named witnesses have been examined. The prosecution intends to examine 4 more witnesses. The petitioner is in judicial custody for more than 5 years. From the report of the State, it does not appear that the delay in the trial can be attributed to the petitioner. Witnesses have been absent on repeated occasions.
3. 5 years is too long a period of time to keep an undertrial in judicial custody without taking the trial to its logical conclusion. Speedy trial and personal liberty are two important limbs of the fundamental

right enshrined in Article 21 of the Constitution of India. If the State lacks mechanism to ensure speedy disposal of a criminal trial, it ought not to oppose an undertrial person's prayer for bail.

4. The past conduct of the prosecution does not persuade us that the trial will indeed conclude on an early date.
5. Hence, without touching the merits of the case and solely on the touchstone of Article 21 of the Constitution of India, we feel impelled to grant bail to the petitioner.
6. Accordingly, we direct that the petitioner, namely, **Biswajit 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 POCSO Act), Baruipur, South 24-Parganas subject to the conditions that the petitioner shall remain within the jurisdiction of Kultali Police Station and shall meet the Inspector-in-Charge of the Kultali Police Station once in a fortnight, until further orders.
7. 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 in any manner whatsoever.

8. 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.
9. The application for bail is, accordingly, allowed.
10. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)