

39. 27.01.2025
Court
No.29 (Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 4059 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 / Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with **Palashipara** Police Station Case **No.33/2023** dated **25.01.2023** under Sections **365/376/34** of the Indian Penal Code. Charge-sheet No. 147/2023 dated 31.05.2023 under Sections **365/376/34** of the Indian Penal Code adding Section **376D** of the Indian Penal Code.

And

In the matter of: - **Ajijul Sekh @ Azizul Sk.**

...petitioner.

Mr. Joydeep Biswas
Mr. Amanul Islam
Mr. Sourav Mukherjee
Mr. Kaushik Ghosh

...for the petitioner.

Ms. Rituparna De Ghose
Mr. Akash Ganguly

...for the State.

Mr. Atis Kumar Biswas
Mr. Amit Singh

...for the *de facto* complainant.

Dictated by Arijit Banerjee, J.

1. The petitioner renews his prayer for bail which was rejected twice earlier, lastly on December 21, 2023, in CRM (DB) 4659 of 2023. He says that he is in custody for about one year and eight months. Only Seven out of 17 charge-sheet named witnesses have been examined. The evidence of the victim lady does not implicate him.
2. Opposing the prayer for bail, learned State Counsel and learned Counsel for the *de facto* complainant draw our attention to the evidence of the victim lady. There is

apparent inconsistency between what she said in her examination-in-chief and what she said in her cross-examination. However, we make no comment on the merits of the case.

3. We find that 10 prosecution witnesses remain to be examined. The petitioner is in custody for one year and eight months which is a considerable period of time.
4. Without touching the merits of the case and seeing that there is practically no possibility of an early conclusion of the trial and considering the period of detention of the petitioner, we are inclined to allow his prayer for bail on the touchstone of Article 21 of the Constitution of India.
5. Accordingly, we direct that the petitioner, namely, **Ajijul Sekh @ Azizul Sk.** 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 the learned Additional Chief Judicial Magistrate, Tehatta, Nadia, subject to condition that the petitioner shall appear before the Trial Court on each and every date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973 / Section 355 of Bharatiya Nagarik Suraksha Sanhita, 2023, and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.
6. In the event the petitioner fails to adhere to any of the conditions stipulated above without any justifiable cause,

the Trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

7. The application for bail being CRM (DB) 4059 of 2024 is accordingly disposed of.
8. Criminal Section is directed to make available urgent photostat certified copies of this order to the parties, if applied for, upon compliance with all requisite formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)