

48. 27.01.2025  
Court  
No.29 (Tanmoy)

Allowed

**IN THE HIGH COURT AT CALCUTTA  
CRIMINAL MISCELLANEOUS JURISDICTION**

**CRM (DB) 4138 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, arising out of **Palashipara** Police Station Case No.**274/2021** dated **15.7.2021** under Sections **363/365** of the Indian Penal Code. Charge framed under Sections **363/365/366/370** of the Indian Penal Code read with Section **16** of POCSO Act, 2012.

And

In the matter of: - **Subhan Mukhter Sk. @ Shuban Muktar Sk.**  
**@ Subham Mukter Sk.**

...petitioner.

Mr. Asraf Mondal

...for the petitioner.

Ms. Sreyashee Biswas  
Mr. Sachit Talukdar

...for the State.

Mr. Priyankar Ganguly  
Ms. Shalini Bairagi

...for the *de facto* complainant.

**Dictated by Apurba Sinha Ray, J.**

1. Service report filed by the State be kept with the records.
2. Learned Counsel for the petitioners submits that the petitioner is in custody for about three years and six months. He has been falsely implicated in this case. There is no chance of an early conclusion of the trial since only one witness out of 16 charge-sheet named witnesses has been examined and that too, in part. If the petitioner is enlarged on bail, he shall comply with the conditions as would be imposed upon him.
3. Learned Counsel for the State opposes the prayer for bail. According to her, there are sufficient incriminating materials

against the present petitioner. If the petitioner is enlarged on bail, the prosecution may suffer.

4. Learned Counsel for the *de facto* complainant has also raised objection.
5. We have considered the materials on record. It is true that the petitioner is in custody for about three years and six months and there is no chance of an early conclusion of the trial since only one witness out of 16 charge-sheet named witnesses has been examined so far.
6. Without touching the merits of the case, solely on the ground of inordinate delay caused in the proceeding of the trial and also keeping in mind the importance of a citizen's fundamental right to personal liberty and speedy trial, which ordinarily must override all other considerations, as enshrined in Article 21 of the Constitution of India, we are inclined to allow the prayer for bail of the present petitioner on certain conditions.
7. Accordingly, we direct that the petitioner, namely, **Subhan Mukhter Sk. @ Shuban Muktar Sk. @ Subham Mukter 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 Sessions Judge-cum-Judge, Special Court, POCSO Act, 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 and on further condition that the petitioner, while on bail, shall remain within the territorial jurisdiction of Tehatta Police Station, Nadia and shall furnish his present address to the Inspector-in-Charge of Tehatta Police Station as well as to the learned Trial Court and shall also meet the Inspector-in-Charge of Tehatta Police Station, Once in every week, until further orders.

8. 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.
9. The application for bail being CRM (DB) 4138 of 2024 is accordingly disposed of.
10. Criminal Section is directed to supply urgent photostat certified copies of this order to the parties, if applied for, upon compliance with all requisite formalities.

**(Apurba Sinha Ray, J.)**

**(Arijit Banerjee, J.)**