

CRM (DB) 34 of 2025

In re: An application for bail under Section 439 of the Code of Criminal Procedure/Section 483 of the BNSS in connection with **Bakultala Police Station** Case No. **130 of 2023** dated **27.04.2023** under Sections **363/366A/232/379/370/370A/376(2)(n)/120B** of the Indian Penal Code and Section 6 of the POCSO Act.

- A n d -

In the matter of : XXXXXXXX

.... Petitioner.

Mr. Lakshminath Bhattacharyya,
Mr. Bitasok Banerjee,

... For the Petitioner.

Mr. Joydeep Biswas,
Mr. Arup Sarkar,

... For the State.

Order dictated by Arijit Banerjee, J.:

1. Report filed by the State be kept with the records.
2. In spite of service nobody appears to represent the defacto complainant/victim.
3. The petitioner complains that he is in custody for one year nine months. Witness action has not yet begun. There are 11 charge sheet named witnesses. 5 out of 7 accused persons are on bail. One accused person is absconding. He renews his payer for bail which was rejected earlier on 12.09.2023. He further says that by the order dated September 12, 2023, a Coordinate Bench had requested the learned Trial Court to consider the issue of framing of charge at the earliest, preferably within one month from that order and to examine the victim within one month from the date of framing of charge. He says that the said order had no effect on the trial.
4. While opposing the bail prayer, learned State Advocate says that this petitioner is the prime accused. The co-accused

persons who were enlarged on bail, although were named in the FIR, were exonerated by the victim girl in her statement recorded under Section 164 of the Criminal Procedure Code. This petitioner is the grand-father of the victim girl, who sold the victim girl to a third party. He says that the delay is not due to any fault on the part of the prosecution.

5. We find that the petitioner is in custody for a long period of time. The trial has not yet begun in the sense that witness action has not begun. It is anybody's guess how long the trial will take to conclude. The petitioner cannot be kept indefinitely in incarceration.

6. Without touching the merits of the case and solely on the touchstone of Article 21 of the Constitution of India, we feel constrained to enlarge the petitioner on bail.

7. Accordingly, we direct that the petitioner, namely, **XXXXXXXX**, 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 Special Judge under the POCSO Act, Baruipur, South 24 Parganas subject to condition that he shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and on further condition that the petitioner while on bail shall remain within the jurisdiction of the Baruipur police station and shall meet the I.C of the said police station twice in a week until further orders.

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.)