

26.02.2025
Item No.71
Court No.26
Allowed
CHC

CRM (DB) 4386 of 2024

In re : An Application for **Bail** under Section **439** of the Code of Criminal Procedure, 1973 read with Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with **Haroa** Police Station Case No. **53/21** dated **12.02.2021** under Section **376AB** of the Indian Penal Code, 1860 and under Section 6 of the Protection of Children from Sexual Offences Act, 2012.

-And-

In the matter of : Siddhi Mondal

... ... Petitioner

Mr. Satadru Lahiri, Advocate
Mr. Safdar Azam, Advocate
... ... *For the Petitioner*

Mrs. Sujata Das, Advocate
Ms. Atulya Sinha, Advocate
... ...*For the State*

1. Petitioner renews prayer for bail.
2. Learned advocate appearing for the petitioner submits that, the petitioner is in custody in excess of 4 years. The earlier order of rejection dated July 15, 2024 passed in CRM(DB) 2067 of 2024 required the trial to conclude within four months from the next date fixed for recording of evidence. He submits that, such period expired and the trial is yet to be concluded. He points out that, out of 15 prosecution witnesses, only 10 stands examined.
3. Learned advocate appearing for the State draws the attention of the Court to the materials on record.
4. Petitioner stands implicated in penetrative sexual assault on a minor.

5. Trial is in progress. Evidence at the trial so far tends to implicate the petitioner.
6. Out of 15 prosecution witnesses, 11 stands examined.
7. Petitioner is in custody for 4 years.
8. Earlier order of rejection dated July 15, 2024 directed the learned Trial Court to expedite the trial to the fullest and conclude the same at the earliest and in any event within four months from the next date fixed for recording of evidence.
9. Coordinate Bench, however, clarified that, in the event, trial is not concluded within the time period indicated, the petitioner will be at liberty to renew his prayer for bail.
10. Learned advocate for the State refers to a report dated February 24, 2025 and submits that, the trial could not progress due to the non cooperation of advocates.
11. We find that, the Officer-in-Charge of the jurisdictional police station by his writing dated February 24, 2025 referred to an order dated February 17, 2025 passed by the learned trial Judge. The relevant portions of which are as follows:-

“Order dated. 17.0225: Today is fixed for evidence of CSW-10/production.

Accused namely Siddhi Mondal is produced virtually.

Accused declines to submit any bail application.

No witness turns Up-

Thus, the Ld. P.P and the Ld. Advocate for the defence counsel both are absent.

It is pertinent to mention herein that from 02.12.2024 the Ld. members of Basirhat Civil and Criminal Court Bar Association are not participating in judicial work of this court by taking resolution. On the basis of Report of this Court duly forwarded by the Ld. District Judge, North 24 Parganas the Hon’ble High Court at Calcutta was pleased to initiate Proceeding, of Criminal contempt against the Ld. Lawyers of Basirhat Civil and Criminal Court Bar Association vide WPA (P) 12 of 2025 renumbered as CRL

CP 2 of 2025 dt. 15.01.25 and the Ld. Advocates of Basirhat Civil and Criminal Court Bar Association through their respective Presidents and Secretaries in that CRL CP 2 of 2025 dt. 15.01.25 gave undertaking before the Hon'ble Court that no untoward incident would occur within or the immediate vicinity of the court premises and the members would rejoin their normal functioning but till date the Ld. members of Basirhat Civil and Criminal Court Bar Association are not participating in any judicial work of this court. Since 01.12.2024 the Ld. advocates of Basirhat Civil and Criminal Bar Association are participating in the judicial work of this court as and when the regular P.O of this court remained on leave or on leave on duty. The Ld. Panel P.P and the Special P.Ps are also absent in the Court. The ld. Lawyers appointed by the SDLSC Basirhat have also abstained from representing the undefended accused persons in this Court inspite of their appointment by the Chairman of SDLSC. Due to the non co operation of the ld. Advocates of Basirhat Court this Court is facing great difficulty in proceeding the cases before this Court and therefore the rights of the parties to get speedy trial has been greatly hampered.

Let a letter be issued to the Ld. Chairman of SDLSC Basirhat for appointment of Advocate to defend the case.

Fix 24.02.2025 production/evidence of CSW-12.

Presecution to take steps.”

12. In view of the period of custody and in view of the earlier order of the coordinate Bench dated July 15, 2024 and in view of the fact that, the trial did not conclude within time stipulated therein, purely on the principles of Article 21 of the Constitution of India, we grant bail to the petitioner.
13. Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs. 10,000/- (Rupees Ten Thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the **Learned Additional Chief Judicial Magistrate, Basirhat, North 24 Parganas**, subject to condition that the petitioner shall appear before the learned trial court on every date of hearing

until further orders and shall not intimidate witnesses and/or tamper with evidence in any manner whatsoever.

14. In the event, the petitioner fails to comply with the conditions as enshrined hereinbefore, it is open to the trial court to cancel the bail without further reference to this Court.
15. The prayer for bail of the petitioner is **allowed**.
16. CRM(DB) 4386 of 2024 is **disposed of**.
17. High Court Administration will draw the attention of the Court in seisin of CRLCP 2 of 2025 of this order as also of the order dated of the jurisdictional Court as noted herein.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)