

28.01.2025.
Sl. No.05.
Ct. No. 1
SG
[Rejected]

IN THE HIGH COURT AT CALCUTTA
Circuit Bench At Jalpaiguri

C.R.M. (DB) 3 of 2025

In Re:- An application for bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Rajganj P.S. Case No. 387/2024 dated 03.11.2024 under Section 105 of BNS.

And

In the matter of : **Bishnupada Sarkar @ Bishnu Sarkar.**
... Petitioner.

Mr. Jaydeep Kanta Bhowmik,
Mr. Sayantan Bhowmik,
Mr. Shubham Kumar,
Ms. Sayanti Das.

...for the petitioner.

Mr. Aditi Shankar Chakraborty, Ld. A.P.P.
Dr. Arjun Chowdhury.

...for the State

1. Petitioner is in custody for 50 days. He submits the victim boy suffered injuries due to road traffic accident and died. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail. He contends petitioner had taken away the victim and his two other children, namely, Moumita and Gublu in his toto. Thereafter, he murdered the child.
3. We considered the rival submissions at the bar. We also noted extensive injuries on the deceased. In this backdrop, we directed the investigating agency to submit report whether Moumita and Gublu had suffered injuries in course of the incident. Medical opinion was also sought for

whether the injuries on the deceased may be due to road traffic accident or not.

4. Report of the investigating agency is placed on record. Report shows Moumita and Gublu had not suffered injuries during the incident. Medical Officer opined that the injuries on the deceased was by impact with hard and blunt object over abdominal wall. He opined fall from vehicle over hard surface may produce such injury. However, the opinion is tentative and the doctor clarified further investigation ought to be made regarding circumstantial evidence. Medical opinion with regard to cause of injury is a tentative one. The medical officer had clarified the actual cause must be investigated on strength of circumstantial evidence. A significant circumstance is the absence of injuries on the other occupants in the toto i.e. Moumita and Gublu in course of the incident. Had the toto met with an accident the other two children in the vehicle would also have suffered injuries. This improbabilises the defence version with regard to injuries arising out of road traffic accident. On the other hand, the injuries are caused by hard blunt substance and the petitioner was the only adult person who was present when the injuries were caused.

5. In light of the aforesaid incriminating circumstances and gravity of offence, we are not inclined to grant bail to the petitioner.

6. Accordingly, the prayer for bail of the petitioner is rejected.

7. We express displeasure with regard to the quality and nature of investigation conducted by the police officer. Notwithstanding direction passed by this Court the investigating officer was most reluctant to conduct a fair and impartial investigation and even went to the extent of relying on a tentative opinion of a medical officer who had clarified that the said opinion requires to be vetted through circumstantial evidence.

8. Having recorded such displeasure we direct the Superintendent of Police, Jalpaiguri District to transfer the investigation to a superior police officer who shall conduct the same in a fair and impartial manner.

9. Superintendent of Police, Jalpaiguri District shall take note of the aforesaid observations and initiate appropriate proceedings against the police officer conducting the investigation in the case.

10. Copy of this order be communicated to Superintendent of Police, Jalpaiguri District for necessary compliance.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)