

24.01.2025.
Sl. No.05.
Ct. No. 1
SG

IN THE HIGH COURT AT CALCUTTA
Circuit Bench At Jalpaiguri

C.R.M. (DB) 8 of 2025

In Re:- An application for bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Kharibari P.S. Case No. 299 of 2024 dated 28.09.2024 under Sections 137(2)/126(2)/115(2)/351(2)/70(2)/3(5) of BNS and Section 6 of POCSO Act.

And

In the matter of : **Jagadish Paswan and Anr.**

... Petitioners.

Mr. Sabir Ahmed,
Mr. Joyjit Dutta,
Mr. Aniruddha Biswas,
Ms. Ditisha Choudhury,
Mr. Kanah Mishra.

...for the petitioners.

Mr. Nilay Chakraborty. Ld. A.P.P.
Mr. Abhijit Sarkar,
Ms. Sukanya Adhikary.

...for the State

1. Petitioners submit they are not the principal offenders. They were not named by the victim in her statement before Magistrate. Brother and sister of the victim have also not named them. Accordingly, they pray for bail.
2. Learned Advocate for the State opposes the prayer for bail.
3. We have considered the materials on record. Victim is a minor girl. She had gone out to relieve herself along with her brother and sister. At that time three persons abducted her and took her in a deserted place. There as per victim's statement she was raped by Rajesh. At that time her grandmother came to the spot and was driven away. Victim's

grandmother had lodged FIR. In her FIR she alleges the victim had been abducted by the Rajesh Paswan, Rahul Ram and the second petitioner. Thereafter, she had been raped by Rajesh Paswan and Rahul Ram. When she went to the spot the accused persons including the first petitioner had driven her away. Learned Counsel argues that the petitioners are not named in the statements of the witnesses including the *de facto* complainant before Magistrate. Statements of the minor victim and her siblings have to be appreciated in light of their tender age and vulnerability. Moreover, the grandmother's statement before Magistrate gives indication with regard to the circumstances in which the identity of the miscreants were disclosed. In her statement she claims the miscreants had phoned their parents and the latter had intervened for settlement. This enabled the grandmother to know the identity of the miscreants. Her statement before Magistrate has to be read along with the FIR wherein the petitioners are named and their roles specified.

4. In light of the aforesaid materials on record and gravity of offence, we are not inclined to grant bail to the petitioners.

5. Accordingly, the prayer for bail of the petitioners is rejected.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)