

0303  
2025

MONDAY

COURT : 01  
ITEM : 15  
MATTER : 439  
STATUS : IB  
BENCH ID : 1430  
AR COURT : NANDY

**CALCUTTA HIGH COURT**  
**IN THE CIRCUIT BENCH AT JALPAIGURI**  
**CRIMINAL MISCELLANEOUS JURISDICTION**

CRM (DB) 43 of 2025

In Re:- An application for **Bail** under section **483** of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed on January 31, 2025 in connection with Alipurduar Police Station Case No. 401 of 2024 dated 23.09.2024 under Sections 64(2)(i)(k)(m) of Bharatiya Nyaya Sanhita. (Sessions Case No. 210 of 2024)

And

In the matter of : **BHOLA GHOSH**

.....PETITIONER

**MR. SOURAV GANGULY, ADVOCATE**  
**MS. RISHITA CHAKRABORTY, ADVOCATE**  
**MR. BIBEK TARAFDAR, ADVOCATE**  
**MS. GOPA ROY, ADVOCATE**  
**MS. DEBBINA ROY, ADVOCATE**

.....for the Petitioner

**MR. NILAY CHAKRABORTY, ADVOCATE**  
**MR. DHIMAL SIL, ADVOCATE**

.....for the State

1. The instant application for bail is filed at the behest of the petitioner in connection with Alipurduar Police Station Case No. 401 of 2024 dated 23.09.2024 under Section 64(2)(i)(k)(m) of Bharatiya Nyaya Sanhita.
2. The application for bail filed by the petitioner was rejected by the Additional District & Sessions Judge, FTC-I, Alipurduar, as no DNA Test Report of the accused was filed or in other words, available before this Court. Obviously, the rejection was necessitated by the statement of the victim lady recorded under Section 183 of the Bharatiya Nagarik Suraksha Sanhita.
3. According to the petitioner, there is no complicity in commission of an offence for which the FIR is lodged and the case is initiated. Admittedly, the petitioner is in custody for five months and ten days.

4. Learned Additional Public Prosecutor, in course of hearing, hands over the DNA Test Report which does not indicate that the foetus which was aborted contain the DNA of the petitioner. The investigation is over as the charge-sheet has already been submitted but the charges have not been framed as yet.
5. Despite the notice having served upon the victim lady, there is no appearance on her behalf.
6. Be that as it may, taking into the facts discerned from the record and the fact that the petitioner is not found to be a biological father of the said foetus, there is no point in keeping the petitioner in custody during the trial.
7. Accordingly, the prayer for bail is allowed.
8. The petitioner namely, **Bhola Ghosh**, 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 Additional District & Sessions Judge, Alipurduar, on condition that the petitioner shall appear in a case as and when the same is posted for hearing; in absence whereof for a single day without the leave obtained from the concerned Court, may disentitle the petitioner from the liberty of bail extended to him. It goes without saying that the petitioner shall cooperate in the trial and shall not intimidate the witnesses nor create any influence upon them.
9. The application being **CRM (DB) 43 of 2025** is accordingly **disposed of**.

(HARISH TANDON, J)

(APURBA SINHA RAY, J)