

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI**

17.02.2025

Court No.01
rpan/09

CRM (DB) 83 of 2025

In Re:- An application for bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with Kharibari Police Station Case no. 303 of 2023 dated 28.10.2023 under Section 376D of the Indian Penal Code read with Sections 6 and 17 of the Protection of Children from Sexual Offences Act, 2012;

And

In Re : **Sitam Xalxo**

- Petitioner

Mr. Subham Ghosh,
Mr. Mayank Roy
... for the petitioner.

Mr. Abhijit Sarkar,
Mr. (Dr.) Arjun Chowdhury
... for the State.

Mr. Ghosh, learned advocate appearing for the petitioner submits that the examination of the victim girl is already over. A co-accused person, namely, Rabel Roy @ Robel Roy @ Potol has already been granted bail by a co-ordinate Bench of this Court. The petitioner has already suffered incarceration for about 476 days and in the said conspectus, further detention of the petitioner may not be necessary and he may be enlarged on bail on any stringent condition.

Drawing our attention to the statements of the witnesses and other materials in the case diary, Mr. Sarkar, learned advocate appearing for the State opposes the petitioner's prayer and submits that there are strong incriminating materials on record against the petitioner. The trial has already commenced and the next schedule for evidence has been fixed on 7th, 10th and 11th March, 2025.

In reply, Mr. Ghosh, placing reliance upon the evidence of the victim girl, submits that it would be explicit therefrom that the petitioner herein is similarly situated with Rabel Roy @ Robel Roy @ Potol and on the ground of parity also the petitioner may be enlarged on bail.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Parity cannot be the sole ground for granting bail even at the stage when the bail application of a co-accused is allowed. Court cannot proceed on the basis of parity on a simplistic assessment, which again cannot pass muster under the law. Records reveal that Rabel Roy @ Robel Roy @ Potol was granted bail on 4th December, 2024 when trial was yet to commence. Now the trial has already commenced and next schedule for evidence has been fixed on 3rd, 10th and 11th March, 2025. We have also perused the statements of the witnesses as well as the statement of the victim girl, as recorded under Section 164 of the Code. Considering the gravity of the offence, the manner in which the offence was committed and the extent of complicity of the petitioner in the alleged offence, we are not inclined to exercise discretion in favour of the petitioner at this stage.

In view thereof, the application of bail, being CRM (DB) 83 of 2025 is dismissed.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Prasenjit Biswas, J.)

(Tapabrata Chakraborty, J.)