

0303
2025

MONDAY

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

CRM (DB) 126 of 2025

COURT : 01
ITEM : 39
MATTER : 439
STATUS : ALLOWED
BENCH ID : 1482
TRANSCRIBER : ROHAN

In Re:- An application for **Bail** under section **483** of the Bharatiya
Nagarik Suraksha Sanhita, 2023 filed on February 18, 2025 in
connection with Phansidewa Police Station Case No. 334/2024
dated 27.08.2024 under Section 103 and 238 of the Bharatiya
Nyaya Sanhita, 2023 (Sessions Case No. 02/2025).

And

In the matter of : **Rakesh Xess**

.....Petitioner

Ms. Madhushri Dutta, Advocate

Mr. Bhaskar Roy Mohashaya

.....for the Petitioner

Mr. Abhijit Sarkar

Mr. Kallol Nag

.....for the State

1. The petitioner is the uncle of the victim girl whose body was recovered from a drain. The post-mortem report reveals the death by drowning but there were several injuries found on her body. The petitioner initially approached the police authorities for lodging a complaint that her niece is missing but later on, is apprehended and is in custody since last six months or more.
2. Our attention is drawn to the statement of the father of the victim girl recorded under Section 161 of the Cr.P.C. which does not reveal that any allegations or suspicion is raised against the petitioner. The petitioner is apprehended solely on the basis of the statement recorded under Section 161 of the Cr.P.C. by the Investigating Officer.
3. According to the Investigating Officer, there is a confession made but no attempt was made on the part of the Investigating Officer to take the petitioner before the Jurisdictional

Magistrate in this regard.

4. The investigation is over as the charge-sheet has already been filed
5. Considering the facts as indicated hereinabove, we do not think that any further custody of the petitioner is warranted. Apart from the same, there is no direct evidence having being found in the investigation and the trial is to be conducted on the basis of a circumstantial evidence.
6. We, therefore, allow the prayer for bail.
7. The petitioner namely, **Rakesh Xess**, 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, Siliguri, 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.
8. The application being **CRM (DB) 126 of 2025** is accordingly **disposed of.**

(HARISH TANDON, J)

(APURBA SINHA RAY, J)