

11.04.2025
Court No. 4
(A.Bhar)
(Allowed)

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

CRM (DB) 170 of 2025

In Re: An Application for bail under Section 439 of the Code of Criminal Procedure as amended under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

And

**In the matter of: Sushanta Singha @ Putu
.....Petitioner.**

Mr. Hillol Saha Podder,

Mr. Mousumi Das,

.....For the petitioner

Mr. Saikat Chatterjee,

Mr. Chattu Roy,For the State

This is an application under Section 439 of the Code of Criminal Procedure filed by the petitioner who is in custody in connection with Mathabhanga Police Station Case no-656 of 2024 dated 03.09.2024 under Section 329(4)/64(2)(K)/62/351(2) of the Bharatiya Nyaya Sanhita 2023.

It is the contention of the petitioner that he is falsely implicated in this case, and is in custody from 03-09-2024. It is further contended that the allegations have no legs to stand upon. It is also contended that charge-sheet has already been submitted and as the petitioner is a permanent resident of the address mentioned in the cause title and there is no chance to abscond if released on bail.

Heard Learned Advocate for the petitioner and Learned Advocate for the opposite party State of West Bengal perused the materials in the case diary.

Learned Advocate for the petitioner submits that his client is falsely implicated in the instant case and the allegations made against him are not maintainable. Learned Advocate submits that considering the period of detention and the fact that charge-sheet is submitted the prayer for bail made by the petitioner be considered.

Learned Advocate for the opposite party objects the grant of bail.

Upon perusal of the case diary it appears that the mother of the victim girl refused medical examination. There is also contradiction of the statement made in the FIR and under Section 164 CrPC. It has been stated in the FIR that the accused attempted to commit rape and in the statement under Section 164 CrPC there is allegation of committing rape. Although at this stage it would not be proper to make further observation with regard to the merits of the case but it is necessary to decide as to whether petitioner should be granted bail.

In order to decide bail application it is necessary to consider the nature of offence, severity of the punishment if the accused is convicted, the evidences collected the chance of abscondence and tampering of evidence, if released on bail.

It is decided in different judicial pronouncements that bail is the rule and jail is the exception, and the accused is presumed to be innocent till proved guilty.

In the case of Mohd Tahir Hussain VS State of NCT of Delhi reported in 2025 SCC online S.C. 135 the Hon'ble Supreme Court was pleased to quote passage from the case of Javed Gulam Nabi Shaikh which are as follows:

‘18. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until Proven guilty cannot be brushed aside lightly, however stringent the penal law may be.”

In the instant case although the petitioner is charged with committing a heinous offence but considering the materials in the case diary period of detention which is more than 7 months the fact that the investigation is complete and charge sheet is submitted this Court is of the view that as there is no reasonable apprehension to abscond in the interest of justice the petitioner should be released on bail.

Hence the petitioner be released on bail with 2 sureties of Rs. 5,000/- each one of which must be local subject to the satisfaction of Learned Trial Court. The petitioner upon being released shall meet the officer in charge of the concerned Police Station twice a week and shall not enter into the village where the victim girl and defacto complainant resides, and shall not meet the persons acquainted with the facts of the case and shall attend Court on all dates fixed. In the event there is violation of the condition Learned Trial Court will be empowered to cancel bail without any reference to this Court.

(Biswaroop Chowdhury, J.)

