

04.04.2025
Item no. 6.
Court No.4.
AB
(Allowed)

**Calcutta High Court
In the Circuit Bench at Jalpaiguri**

CRM (M) 3 of 2025

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure, 1973/Under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Mathabhanga Police Station Case No.184 of 2024 Dated 02.04.2024 under Section 201/302 of the Indian Penal Code

And

In the matter of : Abbach Alli Mia @ Abbas Hossain @ Raju

.....Petitioner.

Mr. Sourav Ganguly,
Mr. Gopal Roy,
Ms. Rishita Chakraborty.....for the Petitioner.

Mr. A. S. Chakraborty, Id. APP
Dr. Arjun Choudhuryfor the State.

1. Learned Advocate for the petitioner and learned Advocate for the Opposite Party/State of West Bengal are present.
2. Heard learned Advocates for the parties.
3. Perused the materials in the case diary.
4. Learned Advocate for the petitioner submits that his client is not involved in the alleged offence and he is implicated being nephew of the co-accused person.
5. Learned Advocate further submits that there is neither any recovery from the petitioner nor any material

against him, although he has been implicated in the instant case.

6. Learned Advocate further submits that there is no chance for the petitioner to abscond, if granted bail and considering that the petitioner is in custody for almost one year, his prayer for bail be considered.
7. Learned Advocate for the Opposite Party/State of West Bengal submits that the prayer for bail of the petitioner was rejected on 18.02.2025 and his prayer for bail may not be considered at this stage. Learned Advocate for the Opposite Party/State of West Bengal also relies upon different materials available in the case diary.
8. Upon perusal of the statement recorded under Section 164 Cr.P.C. made by two witnesses, it appears that the name of this accused petitioner is not mentioned although the name of the other accused person is mentioned.
9. Further, it is an admitted position that there was no recovery from this particular accused person. Although it would not be reasonable to make any further observation with regard to the merits of the case, but it should be decided as to whether the petitioner should be granted bail.
10. In order to decide as to whether the accused petitioner should be granted bail, it is necessary to consider judicial pronouncements where it is laid down that the

factors to be taken into consideration while granting bail, is the nature and severity of the offence, the evidence as appearing, the chance of abscondance, if released on bail, and repetition of the offence and tampering of witnesses.

11. Upon considering the nature of offence, although it is a serious offence, but considering the materials in the case diary, this Court is of the view that although there are allegations against this petitioner, but this petitioner does not stand on the same footing as that of the other co-accused person.
12. Considering the period of detention i.e. about one year and the age of the petitioner being 19 years, this Court is of the view that in the interest of justice, the petitioner should be granted bail.
13. Thus, I am inclined to allow the prayer of the petitioner.
14. Accordingly, the petitioner, namely **ABBACH ALLI MIA @ ABBAS HOSSAIN @ RAJU** shall be released on bail upon furnishing a bond of Rs.10,000/-, with two sureties of Rs.5,000/-each, one of whom must be local, to the satisfaction of the learned Trial Court, and on further conditions that the petitioner upon being released on bail shall report to the Officer-in-Charge of the concerned police station twice in a week until further orders and shall not meet the persons acquainted with the facts of the case and shall not enter

the locality where the victim used to reside and shall not leave the jurisdiction of the learned Trial Court until further orders.

15. The petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence and/or commit any cognizable offence in any manner whatsoever.
16. In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.
17. The application for bail is, accordingly, allowed.
18. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Biswaroop Chowdhury, J.)

