

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

23.04.2025
(ct. no.03)
03
BR

CRM (M) 8 of 2025

In Re : An application for bail under Section 483 of the
Bharatiya Nagarik Suraksha Sanhita, 2023.

And

In the matter of : Dhiman Malakar

.... Petitioner.

Mr. Sankar Chandra De,
Ms. Panchali Deb Sikder Nag,
Mr. Satyan Sarkar

... For the Petitioner

Mr. Aditi Shankar Chakraborty, Ld.APP
Mr. Sagnik Sankar Sikdar

... for the State.

Mr. A. Nag

.... For the de facto complainant

- 1.** Affidavit of service filed by the petitioner be kept with the record.
- 2.** On being served the de facto complainant is being represented.
- 3.** The prayer for bail in the present case arises out of an order dated 6.1.2025 in connection with Sessions (POCSO) Case number -186 of 2024 arising out of Raiganj Police Station Case Number-402 of 2024 dated 14.11.2024 under Section 137(2), 140(3) of Bharatiya Nyay Sanhita, 2023 adding section 4 of Protection of Children from Sexual Offences Act, 2012 pending before the learned Additional District and Sessions Judge, 2nd Court, Jalpaiguri.

4. The petitioner herein has been implicated in the present case by the father of the victim who is a minor aged about 16 years. The petitioner is aged about 22 years.
5. The State has placed the case diary, wherein it appears that on 13.11.2024, the de facto complainant's daughter left home for school but did not return.
6. The victim has stated in her statement recorded under Section 164 of the Criminal Procedure Code that the accused/petitioner herein had stayed night with her after taking her away and in spite of her unwillingness, the accused allegedly did whatever with her and it was done forcibly.
7. Admittedly, the victim has **refused** her medico legal examination as seen from the note in the case diary dated 16.11.2024.
8. The petitioner is in custody for about 130 days.
9. On hearing the parties and relying upon the judgment of the Supreme Court in ***Deshraj alias Musa vs. State of Rajasthan & Anr. reported in 2024 SC OnLine SC 2709***, wherein the court considered a case similar to the present case, wherein the accused aged about 18 ½ years and the victim aged 16 years were in a consensual relationship and granted bail to the accused.
10. In the present case charge sheet has been filed. Trial is yet to commence.
11. Considering the age of the parties herein, the stage of investigation and trial and relying upon the judgment of the Supreme Court in ***Deshraj alias Musa(supra)***, this court directs that the petitioner **Dhiman Malakar** be released on bail of Rs.20,000/- with two sureties of Rs.10,000/- each one of which must be local with condition that he shall attend the court during trial diligently and shall not misuse the liberty granted to him,

failing which the Trial Judge shall be at liberty to proceed in accordance with law.

12. CRM (M) 8 of 2025 is accordingly disposed of.

13. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Shampa Dutt (Paul), J.)