

**07.07.2025**

Item No.77

Ct.No.02

rc.

**Allowed**

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

**C.R.M. (M) 168 of 2025**

In Re : An Application for bail under Section 439 of the Code of Criminal Procedure read with Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Siliguri Women Police Station Case No. 97 of 2019 dated 13.06.2019.

And

In Re : **Mohit Oraon**

... Petitioner

Mr. Arijit Ghosh

Ms. Angana Rakshit

Mr. Sudipta Ghosh

... for the Petitioner

Mr. Abhijit Sarkar

Mr. Sagnik Sankar Sikdar

... For the State

Dr. Arjun Chowdhury

Ms. Pratusha Dutta Chowdhury

Ms. Sunayana Parveen

Mr. Mantu Mandal

Mr. Bappaditya Roy

...for the Victim Girl

Affidavit of service filed by the petitioner is taken on record.

Heard learned counsels for the parties.

Learned counsel for the petitioner seeks bail solely on the ground of his detention for more than six years.

Learned counsels for the State and the defacto complainant oppose the prayer.

Learned counsel for the defacto complainant places reliance on an authority in X Vs. State of Rajasthan & Anr. reported in 2024 SCC OnLine SC 3539 wherein the Hon'ble Supreme Court has held that ordinarily in serious offences like rape, murder, dacoity etc. once trial commences and the prosecution starts examining its witnesses, the Court should be loath in entertaining the bail petition of the accused. The Hon'ble Supreme Court has indicated two circumstances under which bail is granted and has directed the Courts to refrain from the same. Two circumstances are as hereunder-

- (i) Bail is granted after the charge is framed and just before the victim is to be examined by the prosecution before the learned trial Court and
- (ii) Bail is granted once the recording of the oral evidence of the victim is complete by looking into some discrepancies here or there in the deposition and thereby testing the credibility of the victim.

The fact situation of the present case is otherwise. The petitioner is in custody for more than six years. The last witness was examined before the learned trial Court on April 12, 2024. The prosecution has failed to produce any further witness after the said date for which the petitioner is languishing in custody without trial. Though the learned counsel for the State submits that only three more witnesses remain to be examined, production of such witnesses is uncertain in view of the conduct of the prosecution before

the learned trial Court as evident from the copies of the order sheets produced by the petitioner. The ratio decidendi laid down in the authority referred to above can be distinguished from the fact situation of the present case. In view of the prolonged incarceration of the petitioner and slow progress in trial of the case, this Court is inclined to hold that the petitioner is entitled to bail solely on the touchstone of Article 226 of the Constitution of India, without going into the merits of the case.

Accordingly prayer for bail is allowed.

The petitioner **Mohit Oraon** be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten Thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Siliguri subject to condition that he shall remain outside the jurisdiction of Bagdogra Police Station and shall furnish the address where he shall presently reside before the learned trial Court, Investigating Officer and the Officer-in-Charge of the concerned police station under whose jurisdiction he shall henceforth reside. He shall appear before the learned trial Court on every date of hearing. He shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to comply with any of the conditions as mentioned above without justifiable cause, the learned trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail is, thus, disposed of.

Case Diary be returned.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

**(Suvra Ghosh, J.)**