

JPD-04
Ct No.01
28.07.2025
AK

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

**CRA (DB-B) 2 of 2025
IA No: CRAN 1 of 2025**

In the matter of: **Rabiul Islam**

.... appellant/petitioner

Mr. Partha Pratim Sarkar
Mr. Sudip Guha
Mr. Sandip Guha Roy
Mr. Ananda Paul

... for the appellant/petitioner.

Mr. Aditi Shankar Chakraborty, Ld. APP
Dr. Arjun Chowdhury

...for the State.

1. Affidavit-of-service filed in court today be kept on record.
2. In view of sufficient reason for the delay having been explained, upon hearing learned counsel for the parties, CRAN 1 of 2024 is allowed, thereby condoning the delay in preferring the appeal.
3. The appeal is admitted and taken up for hearing.
4. The petitioner/appellant submits that the petitioner is already in custody for 300 days and the trial is well under way, since 23 witnesses have already been examined.
5. However, the total number of prosecution witnesses sought to be cited is 46 and it will take much time to conclude the trial. As such, it is submitted that the petitioner ought not to be incarcerated further.

6. That apart, it is submitted by learned counsel for the petitioner that there is no clinching evidence as to the involvement of the petitioner in the alleged crime.
7. The petitioner admittedly had a relation with the victim girl.
8. However, there is nothing on record to indicate even remote involvement of the petitioner at the time of the offence.
9. Learned APP, appearing for the State, contends that the prosecution shall not require all the 46 witnesses but about 12/13 more witnesses would suffice.
10. That apart, the prosecution expresses full confidence that the trial will be over by around three months.
11. It is further alleged that there are criminal antecedents of the petitioner inasmuch as there was a complaint lodged against him regarding the murder of the wife of the petitioner.
12. A statement under Section 164 of the Criminal Procedure Code, by the brother-in-law of the wife of the petitioner has been taken in connection with the said investigation.
13. Learned APP further submits that in view of the nature of the offence and the fact that the safety of the mother of the victim girl might be jeopardized in the event the petitioner is enlarged on bail, the prayer for bail ought to be refused.
14. It is further contended that a video re-construction of the event has already been made.
15. Upon careful consideration of the rival contentions of the parties, we are of the opinion that the fact that a complaint has been lodged against the petitioner with regard to the alleged murder of his wife, which has not yet culminated even in an FIR, let alone a

charge sheet, cannot be considered to be a criminal antecedent at all.

16. Focusing on the present case, we cannot lose sight of the fact that although the trial is under way and the investigation was concluded and charge sheet filed long back, still there may be some apprehension of the petitioner intimidating or inducing the witnesses to the case, particularly the mother of the victim, during pendency of the trial, if enlarged on bail.
17. That apart, since the prosecution assures us that the trial will be over by three months, we record such submission and express full hope and trust that the trial will be over by the outer limit of three months from date.
18. Even today, we are apprised, is fixed for the autopsy surgeon's evidence in the trial court.
19. Moreover, keeping in view the gravity of the offence and the fact that the trial is on the verge of conclusion, we are not inclined to grant bail to the petitioner at this stage.
20. Accordingly, CRA (DB-B) 2 of 2025 is dismissed with the observation that it is expected that the trial shall be concluded as expeditiously as possible, positively within October 31, 2025.
21. It is further clarified that the learned trial Judge shall not grant any unnecessary adjournment to either of the parties during the trial.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)