

03.09.2025
Court No.4
Item No.10
Samarpita
Allowed

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

CRM (M) 238 of 2025

In Re: - An application for bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Mathabhanga Police Station Case No. 122 of 2025 dated 20.02.2025 under Sections 64 of the Bharatiya Nyaya Sanhita. Bharatiya Nyaya Sanhita, 2023

And

In the matter of: **Bikash Shil @ Shiv Saankar**

....Petitioner.

Mr. Subhasish Misra,
Mr. Satyajit Paul

...for the petitioner.

Mr. Ujjwal Luksom,
Ms. Namrata Das

....for the State.

1. This is an application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Mathabhanga Police Station Case No. 122 of 2025 dated 20.2.2025 under Sections 64 of the Bharatiya Nyaya Sanhita, 2023.
2. Mr. Subhasish Misra, learned Advocate appearing on behalf of petitioner says that the present petitioner is completely innocent and has been falsely entangled with the offence alleged. The entire allegation is baseless and afterthought with no sort of truthfulness and the same is manipulated and false. It is further contended that

after completion of investigation, charge-sheet has already been submitted by the investigating agency, and as such there is no such requirement of further detention of this accused petitioner behind the bar for the sake of custodial interrogation. So, it is prayed that the present petitioner may be enlarged on bail.

3. Mr. Ujjwal Luksom, learned Advocate for the State raises objection by submitting that there are sufficient incriminating materials in the record which show about *prima facie* involvement of this accused petitioner with the alleged offences. Moreover on earlier occasion the bail prayer of this accused was rejected by the Co-ordinate Bench of this Court and as such the prayer for bail filed by this accused petitioner may be rejected when no subsequent development in respect of granting has been noted.
4. Having given thoughtful consideration to the rival contentions urged by learned counsel on either side and upon a careful perusal of the record, this Court proceeds to examine the matter.
5. The instant case was started on the basis of a complaint lodged by the defacto complainant by stating inter alia that the accused petitioner allegedly committed rape upon the victim. The instant case was started by the concerned Police Station. It further appears that the investigation process in connection with this case has already been ended by submitting charge-sheet by the prosecuting agency. The accused petitioner surrendered before the court and he was taken into custody on 22nd February, 2025.

6. The fact remains that the charge sheet has been filed and custodial interrogation is no longer required. It is also not in dispute that the applicant has remained in custody since for a considerable period of time. The continued incarceration of the applicant, particularly when the investigation is complete, would serve no further purpose other than punitive pre-trial detention, which is impermissible in law.
7. It further deserves to be noticed that the trial, having regard to the volume of evidence and the normal pace of proceedings, is not likely to culminate in the near future and is expected to take a considerable length of time before reaching its conclusion. Keeping the applicant confined for an indefinite period until conclusion of trial would amount to denial of the fundamental right to personal liberty guaranteed under Article 21 of the Constitution. Moreover, no material has been placed on record by the prosecution to establish that the applicant is either a flight risk or that he is in a position to tamper with the prosecution evidence or influence witnesses. In absence of such circumstances, mere apprehension of misuse of liberty cannot be a ground to deny bail. Thus, when custodial interrogation is no longer required, prolonged detention is unwarranted
8. In view of the above, the petitioner 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 Additional Chief Judicial Magistrate, Mathabhanga, Cooch Behar, subject to the conditions that he shall appear before the Trial Court

on every date of hearing until further orders, shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

9. In the event of any violation of the conditions enumerated in the preceding paragraph, the learned Additional Chief Judicial Magistrate or the learned Trial Court shall be at liberty to cancel the petitioner's bail in accordance with law, without any further reference to this Court.
10. Accordingly, this criminal appeal being **CRM (M) 238 of 2025** is hereby **allowed**.
11. Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Prasenjit Biswas, J.)