

27.02.2026
Court No.35.
D/L.59.
Rakib

CRM (DB) 1145 of 2025

In Re: An Application for Cancellation of Bail Under Section 439(2) of the Code of Criminal Procedure, 1973/ Under Section 483(3) of the BNSS, 2023.

And

In the matter of : XXX.

.....Petitioner.

Mr. Imtiaz Ahmed
Mrs. Ghazala Firdaus
Mr. Mofakkerul Islam
Mr. Sk. Saidullah
Mr. Mithun Mondal
Mr. Md. Arsalan

.....for the Petitioner.

Mr. Atif Ahmed Siddiqui

.....for the State.

Mr. Soumajit Chatterjee
Ms. Suchismita Dutta

.....for the O.P. Nos. 2 & 3.

Learned advocate appearing for the petitioner has challenged the order dated 04.07.2024 passed by the learned ACJM, Alipore in connection with Haridevpur Police Station case no. 368 of 2024. Learned advocate submits that the case is under the provisions of Sections 354/354C/509/506/341/323/114 of the Indian Penal Code and under Sections 10/12/17 of the POCSO Act against one of the accused person and Sections 341/323/114 of the IPC read with Section 17 of the POCSO Act against another accused person. Petitioner has prayed for cancellation of bail for both the accused persons.

Grievance of the petitioner is that both the accused/opposite parties appeared before the Court and on compliance with the provisions of Section 41A of Cr.P.C. being recorded by the learned ACJM, Alipore, interim bail was granted to both of them. Learned

advocate for the petitioner expresses surprise that in a case under the provisions of the POCSO Act the accused persons on surrender was granted bail and that to by the Learned ACJM, Alipore who had no authority or jurisdiction to entertain such an application for bail.

Learned advocate for the State has produced the Case Diary.

On perusal of the Case Diary, I find that the case was initially registered on 25.06.2024 under Sections 354/354C/509/506/323/341/114 of the IPC. In course of investigation after the statement of the victim was recorded under Section 164 of the Cr.P.C. on or about 27.09.2024 prayer for amendment of sections and transfer of the case to the Special Court was advanced by the investigating officer of the case and subsequently on conclusion of investigation charge-sheet was submitted under the relevant provisions as stated above under the provisions of the Indian Penal Code and the POCSO Act.

Learned advocate for the de-facto complainant submits an order-sheet of the learned Judge, Special Court, 2nd Additional Sessions Judge, Alipore dated 06.02.2025 wherein the accused/opposite parties were allowed to remain on same interim bail.

So far as the jurisdiction of the learned ACJM, Alipore is concerned on the date on which the accused/opposite parties surrendered before the Court, the Court had complete jurisdiction to entertain the application for bail, the offences complained of being below seven years it was within the domain of the learned

Magistrate to allow the prayer for bail in consonance with the settled provisions of law as referred to in the order dated 04.07.2024.

So far as the addition of Sections under the POCSO Act is concerned along with Sections 376/511 of the IPC, the same were incorporated/added as a result of materials which surfaced in course of the investigation consequent to the bail which was granted by the learned Magistrate.

The Learned POCSO Court subsequently allowed the accused/opposite parties to continue on the same bail and bonds. As such the initial order dated 04.07.2024 which is subject matter of challenge before this Court do not suffer from any infirmity as there were no materials at the relevant point of time for implicating the accused/opposite parties in a case under the provisions of the Special Act or to be tried before a Special Court or a Sessions Court, consequently, I am of the view that no interference is called for in the order under challenge.

As such, CRM (DB) 1145 of 2025 is dismissed.

Case Diary be returned to the learned advocate for the State.

Report submitted by the State be kept with the record.

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

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

(Tirthankar Ghosh, J.)