06.10.2026
Sl. No.08
Mithun
Ct no. 5
(Rejected)

Calcutta High Court
In the Circuit Bench at Jalpaiguri

C.R.M. (R) 39 of 2026

In Re:- An application under Section 430(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with Criminal Appeal No.01 of 2026 (arising out of judgment and order of conviction dated 23.12.2025 passed by the learned Chief Judicial Magistrate, Alipurduar in connection with CR Case No.406 of 2024, thereby convicting the accused under Section 51 of the Wild Life (Protection) Act, 1972.

And

In the matter of : **Bhupen Barman**

.... Petitioner

Mr. Hillol Saha Podder

...for the Petitioner

Mr. Avrojyoti Das, APP,
Mr. Bijay Bikram Das,
Mr. R. Saha

...for the State

Petitioner herein has been convicted by learned Additional Chief Judicial Magistrate, Alipurduar who has sentenced him to suffer rigorous imprisonment for a period of 5 years and also to pay fine of Rs.50,000/- for committing offence punishable under Section 51(1a) of the Wild Life (Protection) Act, 1972.

It is submitted on behalf of the petitioner that the petitioner has suffered incarceration for a period of 650 days in all.

Petitioner/convict preferred an appeal before the learned District & Sessions Judge at Alipurduar for admission

of appeal and for suspension of sentence and also for granting bail.

It is submitted on behalf of the petitioner that this High Court granted bail in other two accused persons, namely, Tapan Barman and Dipankar Mondal in CRM(R) 32 of 2026. Claiming himself as co-accused who is on the same footing with that of the petitioners of CRM (R) 32 of 2026, Petitioner herein preferred a bail application before the Appellate Court on August 18, 2026 but the Court below by the impugned order has rejected the petitioner's prayer for bail.

Being aggrieved by the aforesaid order, learned Counsel for the petitioner submits that the petitioner is almost on the same footing with that of Tapan Barman and Dipankar Mondal. They were granted bail considering the period of detention and that there is no chance of early hearing of the appeal. In the present case also, petitioner is in custody of 650 days and there is hardly any chance of early hearing of the appeal and, therefore, he may be released on bail on any terms and conditions. In support of his contention, learned Counsel for the petitioner relied upon two judgments namely, ***Aasif @ Pasha Vs. the State of U.P. & Ors. reported in 2025 INSC 944*** and ***Bhagwan Rama Shinde Gosai & Ors. Vs. State of Gurajat*** reported in ***(1999) 4 SCC 421***.

Learned Counsel appearing for the State vehemently opposed the bail prayer contending that the petitioner is the kingpin of the offence which is reflected from the various

documents available in the case record including the statement made under Section 50(3) of the Wild Life (Protection) Act, 1972. Therefore, according to the prosecution case, the present petitioner is not on the same footing. He further submits that the Trial Court while awarded conviction had given sufficient reasons to convict the present petitioner. Furthermore, petitioner being the mastermind of the offence, if released on bail, there is every likelihood that he will do similar type of offence in future. In support of his contention, he also relied upon judgment passed by the Apex Court in ***Jamnalal Vs. State of Rajasthan & Anr.*** and contended that in considering the prayer for bail in a case involving a serious offence, the Court should consider the relevant factors like the nature of the accusation made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, and the desirability of releasing the accused on bail after they have been convicted for committing the serious offence. He further submits that there is every likelihood that the conviction order will be sustained by the Appellate Court and, therefore, this is not a fit case where the bail may be granted in favour of the petitioner.

I have considered submissions made on behalf of both the parties. On perusal of the order depending upon which the petitioner has claimed parity, was passed by this High Court on 10.08.2026 mainly on the premise that the

petitioners of the same case are in custody for a considerable period of time and there is no chance of early hearing of the appeal. No other reason was assigned in that order.

I have also gone through the materials placed before me. Learned Counsel appearing on behalf of the State has drawn my attention to an advisory no.01/2022-23 dated 1st December, 2022 wherein it has been desired that the bail petition concerning Special Act like Wild Life (Protection) Act, 1972, where the Public Prosecutor opposes the application for bail, the Court is required to be satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

Having considered the overall aspects of the matter and the role played by the present petitioner in committing the offence and as has been discussed in the impugned judgment, I find that this is not a fit case where the petitioner can be enlarged on bail. Therefore, the prayer for bail made by the petitioner is **rejected**.

However, I find no reason as to why the appeal is pending before the Trial Court for disposal since January, 2026.

Therefore, the Court below, i.e., Appellate Court is directed to make every endeavour for expeditious disposal of the appeal and to make his best effort for early hearing of the

appeal and to deliver a judgment preferably, within a period of 90 days from the date of communication of this order.

Accordingly, CRM (R) 39 of 2026 is disposed of.

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

(Dr. Ajoy Kumar Mukherjee, J.)