

Sessions Case No. 69 of 2025

Present : Bishal Mangrati (WB00928)
Additional District & Sessions Judge,
2nd Court, Burdwan-in-Charge

Order No. 25 dated 21.05.2026:

The record is put up today for orders on the application for bail filed on behalf of the accused person. The Learned Counsel for the accused strongly presses for bail, primarily highlighting the period of the accused's continuous detention since November 18, 2024. He submits that the the alleged victim is a mentally disabled, deaf, and dumb individual. An expert opinion on record indicates she lacks the capacity to make comprehensive communication, even through sign language, casting doubt on the prosecution narrative. The First Information Report was lodged by the victim's nephew out of a sinister motive to falsely implicate the accused. Independent, non-relative witnesses have not supported the prosecution's allegations. The medical injury report does not explicitly point toward sexual violence. The trial is severely delayed because the concerned Court has been lying vacant for a prolonged period, leaving minimal likelihood of a swift conclusion. Submitting further that the accused is willing to abide by any stringent conditions imposed by this Court his Ld. Advocate prays for grant of bail on any condition.

The Learned Public Prosecutor (i/c) vehemently opposes the prayer for bail, arguing that the offense is deeply heinous and committed against an exceptionally vulnerable member of society. He submits that the the victim went missing around 1:30 AM after waking up to use the toilet. During an immediate search conducted by family members in the dead of night, the accused was caught *in flagrante delicto* with the mentally unfit victim. The medical examination report contains sufficient material corroborating the allegations of sexual assault. The trial is actively underway. Out of 19 listed witnesses, 8 have already been examined, and several have given incriminating depositions supporting the prosecution. Expressing his apprehension that the release of the accused at this stage would lead to the tampering of evidence and cause grave prejudice to the remaining witnesses yet to be examined, Ld. PP i/c prays for rejection of the bail application.

Heard the arguments from both sides at length. Perused the Case Diary, the medical reports, and the recorded depositions of the witnesses examined so far.

The accused has been charged under **Section 64(2)(k) of the Bharatiya Nyaya Sanhita, 2023**, which deals with the aggravated offense of rape committed upon a woman who is incapable of giving consent due to a mental or physical disability. While evaluating a bail application at the post-charge stage when the trial is underway, this Court must balance the right to personal liberty against the gravity of the offense, the vulnerability of the victim, and the potential for tampering with evidence. The allegations are grave. The victim is a mentally disabled, deaf, and dumb woman. The defense's contention that the expert deemed her incapable of comprehensive communication cannot be looked at in isolation at this stage. The prosecution's case rests on the factual assertion that the accused was found with the victim in a compromising position in the middle of the night under a tree, away from her home. The defense argument regarding inconsistencies in the injury report and the non-corroboration by independent witnesses amounts to a plea for a deep

appreciation of evidence. It is a settled principle of law that a detailed assessment of evidence and a "mini-trial" cannot be conducted at the stage of considering bail.

Regarding the ground of long detention and the court remaining vacant, the record shows that the trial has not stagnated. Out of 19 witnesses, 8 have already been examined, and some have reportedly corroborated the core allegations. Since material witnesses are actively deposing, releasing the accused at this juncture creates a palpable risk of witness intimidation or coercion, especially given the vulnerable position of the victim's family.

Therefore, considering the severe nature of the offense, the vulnerability of the victim, the fact that the accused was allegedly spotted at the scene of the crime in the dead of night, and the ongoing status of the trial, this Court finds no compelling ground to enlarge the accused on bail. The prayer for bail thus is considered and rejected.

Fix 13.07.2026 for production of accused and examination of CSW 6 & 7.

Prosecution to take steps to summon the witnesses.

Dictated & corrected by me

Sd/-

A.S.J,I/C

Sd/-

Additional District & Sessions Judge,
2nd Court, Burdwan-in-Charge