

In the Court of Additional District & Sessions Judge, Fast Track Court, Bankura.

Present: Sri Durga Sankar Rana,
Additional Sessions Judge, Fast Track Court, Bankura.

S.C. No. 264/2022

Ref : Barjora P.S. Case No. 50/2022, Dated 23-03-2022.

Order No. 47,
Date- 11-03-2025.

As fixed the case record is taken up for hearing on the report dated 04-02-2025 as received from the Department of Psychiatry, BSMCH, Bankura, West Bengal.

Ld. Advocate for the accused person namely Prasenjit Mondal has point-wise submitted that :-

- 1) So far the provision of Cr.P.C, the proceeding of the case should be postponed as they have no objection to the report received from the BSMCH, Bankura.
- 2) The matter that whether it is safe to release the accused amongst public or not is a matter to be decided by the Medical Board as none of the family members of the accused has any specialized degree to determine.
- 3) The mother and the maternal uncle of the accused are ready to take the responsibility to arrange for a regular outpatient and inpatient psychiatric treatment of the said accused from the Department of Psychiatry, Ranchi Hospital.
- 4) The mother and maternal uncle of the accused are ready to take the responsibility to prevent the accused from causing any harm or injury to any other person.
- 5) The mother and maternal uncle of the accused are willing to send the accused to the Department of Psychiatry, at Ranchi Hospital for better medical treatment in impatent mode as in their estimation it is the best option for the psychiatric treatment of the accused.

In answer to the submission of the Ld. Advocate for the accused person, Ld. Public Prosecutor submits that the procedure of the Cr.P.C. be followed so far the report received is a reliable one, but before releasing the accused on bail or otherwise, it is required to be decided whether it is safe to allow the accused to mix with the public at large or not so far as an accusation of murder is against the accused. He further submits that it is preferable that the medical treatment of the accused be done by sending the accused to any safe custody Home having facility for psychiatric treatment, instead of out patient treatment to reduce the treatment time.

Considered.

It appears that today three petitions have been filed from the side of the accused, by one petition, a prayer has been placed before this court to grant bail to the accused person upon the undertaking placed by the mother and maternal uncle of the accused that if the accused is released from custody by allowing bail to him, in that case, the mother and maternal uncle of the accused will arrange for his every possible medical treatment and take all possible measures to deter the accused from causing any harm to any other person or to him.

By another petition a prayer has been made on behalf of the accused to direct the Correctional Home, where the accused has been kept so long, to tender documents of medical treatment of the accused so far imparted during his judicial custody to the mother and maternal uncle of the accused, so that they can proceed with the psychiatric treatment of the accused, just from that stage and so the same to doctors for better medical treatment of the accused.

By the third petition, an undertaking is given by the mother and maternal uncle of the accused person that on release of the accused person from custody he will not be kept in his village and be sent to Ranchi for his appropriate psychiatric treatment.

Considered.

Contd. P/2.

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In my opinion, the primary thing is to be decided whether the proceedings of this case will continue or not in the above stated circumstances. First of all, so far the provision U/s. 329 Cr.P.C. is concerned, when a reliable medical report is available relating to the mental status of the accused, this Court has no intention or specialized knowledge to go beyond that. So, in the above circumstances, following the provisions enumerated U/s. 329 of Cr.P.C. after being satisfied on the basis of the report received from the Department of Psychiatry, BSMCH, Bankura as to the fact that the accused is mentally unfit at present that is the accused Prasenjit Mondal is suffering from unsoundness of mind this finding is recorded to that effect and accordingly the proceeding of this case is hereby postponed until an order reversing the same is passed by this Court upon cogent and reasonable considerations. But as this Court is not certain at this moment that the accused be released amidst the public at large and out of insanity he will not commit any harm to any other person or to himself, this Court does not find any reason to released the accused on bail at this stage. However, the concern Superintendent of the Correctional Home where the accused is presently detained is directed to cause the accused to be produced before the concerned Department of Psychiatry, BSMCH, Bankura regularly for his progressive medical treatment.

Now, the bail petition filed on behalf of accused is taken up for passing order.

Heard both sides over the said bail petition.

Considered.

Bail is given to the mentally person who has the capability to understand that he has been released from custody under some conditions and he is bound to abide by those conditions failing which the liberty to him will be taken away in view of the pendency of the allege acquisition.

Now, in this case as per medical report the mental condition of accused is unfit. So, when the accused has already been declared by a competent authority to be mentally a unfit person , the provisions of granting bail to the present accused is not applicable until and unless the accused recovered from his lunacy and declared as fit by the competent authority.

In view of the above observation, the bail prayer of the accused stands rejected at this stage, being not maintainable.

The Superintendent of the concerned Correctional Home is hereby directed to keep the accused in segregation under constant vigil, as an allegation of murder is available against the accused and the accused has been declared mentally unfit.

Let a copy of this order be tendered to the said Superintendent of the Correctional Home where the accused is presently detained. A compliance report to the said effect be tendered to this Court by the said Superintendent of the concerned Correctional Home within one week from receipt of this direction.

Now, the petition seeking direction to give certified copy of medical treatment documents is taking up for hearing. From the petitions filed in favour of the accused, it is clear that the mother and maternal uncle of the accused wants to arrange for appropriate psychiatric treatment of the accused. Side by side, they have every right to know about what kind of psychiatric treatment was given to the accused person and what progress has been achieved in such treatment. So, the Superintendent of the Correction Home where the accused is present in detained, is directed to give certified copies of medical /psychiatric treatment documents relating to the accused so far arranged by the said Correctional Home to the mother/maternal uncle of the said accused person on receiving acknowledgment therefor.

The matter of releasing the accused for his medical treatment under the custody of his mother and maternal uncle, in view of the above circumstances, is not taken up for passing order.

This Court is not a specialized person to decide whether it will be appropriate to allow accused to mix with general public at large or not considering what is beneficial for the mentally unfit accused person. Therefore, it will be pragmatic that the said matter be decided after receiving a report from the Head of the Department of Psychiatry, BSMCH, Bankura to the effect that whether it will be safe to release the accused amongst general public at large or not or whether it will be safe to keep the accused in the Correctional Home in normal condition or in segregated condition, keeping in view, the existing

Contd. P/3.

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allegation of murder against the accused person and also his present unfit condition. Actually, such information is much needed as the matter of safety and security of other inmates of the Correctional Home is also an important and indispensable matter to be looked into and after receiving the report from the said Head of the Department of Psychiatry, BSMCH, Bankura, necessary direction be accorded to the Superintendent of the concerned Correctional Home where the accused is/will be detained.

Therefore, the said Head of the Department of Psychiatry, BSMCH, Bankura is hereby requested to send a report to this Court to the above queries within 10 (ten) days from the date of receipt of a copy of this order where detailed discussion as to the necessity of the said report has been deliberated.

Let a copy of this order be sent to the concerned Head of the Department of Psychiatry, BSMCH, Bankura.

Fix **10-04-2025** for receiving report from the Head of the Department of Psychiatry, BSMCH, Bankura and also for receiving compliance report from the Superintendent, Bankura District Correctional Home.

So, on the basis of the above order, the proceedings of this case is postponed till a report is received from a responsible authority to the effect that the spell of lunacy is over relating to the accused.

To date **(10-04-2025)** for production through VC and passing of appropriate order.

BC-I is directed to do the needful at once.

Dictated & Corrected by me.

Sd/- D.S. Rana,
Additional Sessions Judge,
Fast Track Court, Bankura.

Sd/- D.S. Rana,
Additional Sessions Judge,
Fast Track Court, Bankura

Memo. No.

Date

Copy forwarded for information and compliance to the :

- 1) Superintendent, Bankura District Correctional Home, Bankura and
- 2) Head of the Department, Department of Psychiatry, BSMCH, Bankura.

Additional District & Sessions Judge,
Fast Track Court, Bankura.