

S.T 15(05)2025
S.C 65/2025
CNR no.WBHG01-001022 -2025

Order no.10 dated 14.11.2025

Today is fixed for further examination-in-chief of P.W-4/Surajit Saha. He is further examined-in-chief and cross-examined in full and then discharged. One plastic sack is marked as M.O-II on identification. His signature on the seizure list dated 27.11.2024 is marked as Exbt.8/1.

At this stage, the bail application filed dated 07.11.2025 on behalf of the J/C accused Tumpa Majumdar (Saha) and China Saha is moved before me.

Heard both sides present. Considered.

The learned Advocate prayed for their bail on the ground of their detention in custody and being female persons. Moreover, the prosecution has examined four witnesses till this date. Immediate completion of trial is not possible. It is also stressed upon that they are entitled to be released on bail in view of the charge framed against them u/s 238(a) of the BNS as this offence is bailable. If on bail, they will comply bail conditions to be imposed.

The learned District P.P in his turn raising strong objection submits that these two accused persons are charged with the offence u/s 61(2) of the BNS as well as section 238(a) of the BNS. Section 61(2) of the BNS should not be read in isolation but it is to be read along with section 103(1) of the BNS. The criminal conspiracy in committing the murder of the minor boy by the active participation of these two accused petitioners cannot be lost sight of. Moreover, other significant witnesses from the chargesheet are yet to be examined. Under no circumstances, the accused petitioners should be released on bail as if it is a case under section 238(a) of the BNS only.

I have patiently heard the parties in the matter of bail application of the two accused petitioners. I have gone through the provision u/s 61(2) of the BNS (old section 120B of the IPC) and section 238(a) of the BNS (old section 201 of the IPC a bailable offence). We should not be unmindful that all the accused persons are charged for criminal conspiracy u/s 61(2) of the BNS (old section 120B of the IPC) for committing the said murder.

So, it is made clear that even if these two accused petitioners are not charged with the offence of murder u/s 103(1) of the BNS (section 302 of the IPC), but since they were charged for criminal conspiracy with the principal accused Sambhu Saha @ Adu, the offence become non-bailable. It is further clarified that according to charges framed against these two accused petitioners, the offence against both of them cannot be categorized for having committed bailable offence under section 238(a) of the BNS only. The learned Defence Counsel has sought for bail, u/s 238(a) of the BNS, by overlooking Sec.61(2) of the BNS.

Now, let me turn to the gravity of the offence. It is learnt from the CD and the case record that a minor child has been done to death by the principal accused Sambhu Saha and in doing so, the present two female accused petitioners joined him as a part of their common criminal conspiracy and active participation.

As per chargesheet, I am told by the learned District P.P that other significant witnesses are yet to be examined in this case.

Therefore, the period of their detention in custody as also the accused petitioner Tumpa Majumdar having a minor daughter and other pleaded grounds of the accused petitioners appears to be misplaced for releasing them on bail.

With the above observations, the bail petition of both the accused petitioners is hereby **rejected**.

To 26.11.2025 for evidence of CSW-5 and C.S.W-7. Prosecution to take steps accordingly.

Dictated & corrected by me

Additional Sessions Judge,
1st Court, Chinsurah
J.O Code no.WB00753

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1st Court, Chinsurah.
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