

ST(P) 09 (08) / 2023
Special (P.O.C.S.O.) 11 / 2023
(C.N.R. - WBHG05-000563-2023)
Present: Smt. Ratna Roy
(J.O. Code : WB00914)

Order no. 26 dated 25.09.2025

Today is fixed for hearing of the bail application on behalf of the accused, Saddam Hossain @ Saddam Hossain Mallick.

Ld. Special P.P.-in-charge and Ld. Defence Counsel are present.

De-facto complainant did not appear.

Heard both sides over the bail petition.

Ld. Defence Counsel submitted that the accused is in custody since 16.04.2023. The accused had applied before the Hon'ble Court for bail. The Hon'ble Court refused the bail application with direction that the trial of the case should be expedited to the fullest extent possible and conclude the trial within 8 months from the next date fixed for recording evidence. Already 8 months is over but the prosecution had failed to comply with the direction of the Hon'ble Court. He further submitted that all the vulnerable witnesses of this case i.e., the victim girl, her mother and other relatives have been examined. There are lot of discrepancies, contradictions and doubts in the evidence of the victim girl and her friend. If the evidence of the victim girl is to be believed, the evidence of her friend has to be disbelieved. From the cross-examination of the victim girl it came that her other friends and their boyfriends had also gone with her to Digha, where she is alleged to have been taken by the accused/petitioner but one of the boyfriends of the friends of the victim girl, who was charge-sheet witness no. 8 had been expunged by the prosecution. The C.S.W-8 is a vital witness of the case. From the evidence of the doctor, who had examined the victim girl (P.W-24) it has come that twice the victim girl had refused medico-legal examination. The history, as mentioned in the medico-legal examination report, that had been prepared by P.W-24 is not mentioned in any of the medico-legal examination reports of the victim girl, when she was twice taken to the doctor and her medico-legal examination was refused. It has also come from the evidence of P.W-24 i.e., the doctor that except for hymen tear on 7 o' clock position, no bleeding or external injury was noted. Pointing to the cross-examination of P.W-24, Ld. Advocate for the accused/petitioner submitted that the doctor had agreed that to meet sexual urge and for personal pleasure if someone regularly do self-manipulation of masturbation by any objection hymen can be ruptured in 7 o' clock position.

Ld. Advocate for the accused/petitioner referring to the decision of Vihaan Kumar vs. State of Haryana submitted that the ground of arrest of the

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accused/petitioner is not mentioned in the arrest cum inspection memo, no separate document had also been produced in the regard that the ground of arrest of the accused/petitioner was notified to him. So, there is violation of Article 22 of the Constitution.

Further referring to the decision of the Hon'ble Apex Court in Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari vs. State of Uttar Pradesh, Ld. Advocate for the accused/petitioner submitted that the Ld. Apex Court had time and again emphasized that the right to life and personal liberty enshrined under Article 21 of the Constitution of India is overreaching and sacrosanct. That Article 21 of the Constitution of India applies irrespective of the nature of the crime.

Considering the long detention of the accused/petitioner and the fact that the direction of the Hon'ble Court could not be complied with by the prosecution and also the fact that the ground of arrest of the accused/petitioner has not been notified to him, the accused/petitioner be granted bail under any condition.

Ld. Special P.P.-in-charge opposed the bail prayer stating that many times the bail prayer of the accused/petitioner has been rejected by this Court. The bail prayer of the accused/petitioner has also been rejected by the Hon'ble Court. The trial of the case is nearly over.

Considered submissions of Ld. Advocate of both the sides. Perused the materials on record.

On perusal I find that the Hon'ble Court had refused the bail prayer of the accused/petitioner after the evidence of the victim girl. There is no direction of the Hon'ble Court in the regard that if the trial cannot be concluded within the time frame, the accused shall be released on bail. At the time of hearing bail application, discrepancies in evidence are not to be scrutinized. The evidence of the case is near completion. I thus do not find it to be a fit case to grant bail to the accused/petitioner. Hence, the bail prayer of the accused/petitioner namely, Saddam Hossain @ Saddam Hossain Mallick stands rejected.

To date.

D/C by me.

SD/-
(Ratna Roy)
Judge, Special Court-cum-
Additional Sessions Judge,
1st Court, Serampore,

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(Ratna Roy)
Judge, Special Court-cum-
Additional Sessions Judge,
1st Court, Serampore