

POCSO(Spl) 61 of 2025

7 / 05.06.2025

Today is fixed for production of the accused and I.O.'s report.

One bail application for the accused namely Nijam Molla @ Nizamuddin Molla is filed.

Heard Ld. Advocate for the accused who prays for bail.

At the very outset, Learned Advocate for the accused submits before this Court that no such application u/s 482/483 BNSS is either pending and/or disposed of in the negative by any higher forum.

Ld. Special Public Prosecutor raises objection.

Heard both sides. Considered.

Perused the case diary; charge-sheet already submitted disclosing commission of offences punishable under sections 8/12 POCSO Act and 332(b)/351(s) BNS.

None of the alleged offences punishable with death/imprisonment for life.

In **Sanjay Chandra v. CBI, (2012) 1 SCC 40** the Hon'ble Apex Court has held:

"21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, "necessity" is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.

23. Apart from the question of prevention being the object of refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson."

In view of the above and considering the fact that investigation has culminated in submission of charge-sheet prima facie disclosing commission of offences not punishable with death/imprisonment for life and period of detention undergone by the accused person, custodial detention of the accused appears to be unnecessary and hence accused may find bail of Rs. 3000/- with one surety of like amount subject to satisfaction of Ld. A.C.J.M., Basirhat with further condition to not directly or indirectly making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court i/d to judicial custody till 8/7/2025.

If on bail, to 8/7/2025 for appearance and supply of copies.

Dictated & corrected by me

Judge,Spl. Court (POCSO Act)

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Basirhat, North 24 Parganas

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J.O Code : WB 00980