

SPL 135/2025

Present: SUTIRTHA BANERJEE [J.O. Code WB-00980]  
Additional District & Sessions Judge , Basirhat  
North 24 Pgns

Order no. 4 dated 12/9/2025

Accused Najmul Hossain Gazi produced from judicial custody.

Bail application filed for accused person.

Ld. Special P.P. files hazira and is present.

De-facto complainant is produced by the I.O. who furnishes explanation called for.

Explanation accepted; I.O. directed to be more cautious in future.

At the very outset, Learned Advocates for the accused person 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. Advocate for accused prays for bail on ground of false implication and submits that case is actually false which is evident from the belated nature of complaint.

Ld. Special Public Prosecutor raises objection citing nature and gravity of alleged offences, materials in case diary and tender age of the V.G. De-facto complainant also raises objection.

Heard both sides. Considered.

Perused the record and case diary including statement of the V.G. .

It appears F.I.R. is grossly delayed without any explanation. V.G. appears to have refused Medico legal examination. Also though it is alleged that after the incident, the accused and his family member assaulted the de-facto complainant no such injury report collected. Nature of allegations when seen in totality and in light of materials in case diary do not rule out false implication.

I have traversed the entire gamut of this case and the materials exposted in the CD and after such exercise I find that confinement of the accused person in judicial custody is not an indispensable necessity for the unhindered investigation in the case especially when search and seizure from the accused person is complete and there has been no development in the CD since then. The accused person is in custody for a considerable period of time and sufficient opportunity has been given to the investigating officer to develop the probe.

It is also apposite to add that the Hon'ble Supreme Court in **Dr. Vinod Bhandari v/s. State of Madhya Pradesh AIR 2015 SCW 1052**, has held:-

*“12. It is well settled that at pre-conviction stage, there is presumption of innocence. The object of keeping a person in custody is to ensure his availability to face the trial and to receive the sentence that may be passed. The detention is not supposed to be punitive or preventive. Seriousness of the allegation or the availability of material in support thereof are not the only considerations for declining bail.”*

Thus mere presence of prima-facie materials must not be the sole criteria of rejection of the bail prayer, especially when bail has been promulgated to be the rule

(2)

and jail the exception. It is also apposite to add that detention at this stage is not punitive. There is no material to conclude that the accused person has propensity to win over the witnesses or tamper with the evidence if released on bail.

Hence based on the above delineations the prayer for bail stands allowed.

Accused may hence find interim bail of Rs. 2,000/- with one surety of like amount subject to the satisfaction of Ld. ACJM, Basirhat i/d to judicial custody till 26/9/2025 with further condition to meet the I.O. of the case once a week for next one month and not to commit and/or indulge in any act similar to the offence for which he has been indicted in this case and 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 or to any police officer or tamper with the evidence. In addition he shall not enter jurisdiction of Basirhat P.S. till further order.

If on bail, to date i.e. 27/11/2025 for appearance.

Dictated & corrected by me

Judge, Spl. Court (POCSO Act )  
Basirhat, North 24 Parganas

Judge, Spl. Court (POCSO Act)  
Basirhat, North 24 Parganas