

In the Court of the Learned Special Judge (SC/ST Act)**Alipore, South 24-Parganas****SPL – 26 of 2026**

[Arising out of Tollygunge P.S. Case No. 151 dated 02.08.2026]

Under Sections 64/69/351(2) of the Bharatiya Nyaya Sanhita read with Sections 3(1)(r), 3(1)(s), 3(1)(w)(ii) and 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act]

Present : Sri Rajesh Chakraborty (JO Code-WB00764)
Additional Sessions Judge, 1st Court, South 24 Pgs at Alipore

Order No. 06 dated 08.07.2026

Record is put up today.

The accused, Subhranil Ray, has been produced before this Court under arrest. An application for bail has been filed on his behalf.

Learned Advocate appearing for the accused has submitted that the accused has been falsely implicated in the instant case. It has been argued that the allegation regarding the place of occurrence is inherently doubtful inasmuch as there exists no third floor in the building where the alleged incident of rape is stated to have taken place. It has further been contended that the victim is a minor and that any physical intimacy, if at all, was entirely consensual. Learned Advocate has also submitted that the accused is suffering from gastritis requiring medical attention and is a practicing Advocate by profession, having deep roots in society with no likelihood of absconding. It is further submitted that the accused is willing to cooperate with the investigating agency in every possible manner and, therefore, his release on bail would not prejudice the investigation.

Learned Public Prosecutor has vehemently opposed the prayer for bail. The Investigating Officer, who is present before the Court, has submitted that during the course of investigation the actual place of occurrence has already been ascertained and the defence sought to be projected regarding the non-existence of the alleged place of occurrence is without substance at this stage. It has further been submitted that several important facets of the investigation remain to be unearthed and that custodial interrogation of the accused is indispensable for an effective and meaningful investigation. Accordingly, the Investigating Officer has prayed for police custody of the accused.

Learned Advocate appearing on behalf of the de facto complainant has also opposed the prayer for bail. Having been afforded an opportunity of hearing in terms of Section 15A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, learned Advocate has submitted that the allegations disclose grave offences involving sexual assault coupled with offences under the SC/ST (Prevention of Atrocities) Act. It is contended that the accusations are serious in nature and that release of the accused at this incipient stage may adversely affect the investigation

and may also have the effect of intimidating the victim and other material witnesses.

I have given my anxious consideration to the rival submissions. I have carefully perused the case diary and the materials collected during investigation. I have also gone through the statements of the witnesses, including those of the de facto complainant recorded under Sections 180 and 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

At this stage, the Court is not expected to undertake a meticulous examination of the evidence or adjudicate upon the probable defence of the accused. The submissions regarding the alleged non-existence of the third floor, the consensual nature of the relationship and the medical condition of the accused constitute matters which are essentially issues of defence and are required to be tested during the course of investigation and, if necessary, at trial upon appreciation of evidence. Such disputed questions of fact cannot be conclusively determined at the stage of consideration of bail.

The materials presently available in the case diary disclose prima facie incriminating circumstances against the accused. The statements of the victim and other witnesses, as collected during investigation, especially the one recorded by the Ld. Magistrate of the victim cannot at this stage be said to be inherently improbable or devoid of evidentiary value, including matters of the identification of the place of occurrence and the manner in which the offence has allegedly taken place. The Investigating Officer has specifically submitted that the actual place of occurrence has been verified during investigation and that further custodial interrogation of the accused is necessary for collection of material evidence and for carrying the investigation to its logical conclusion.

The accusations involve offences punishable under Section 64 of the Bharatiya Nyaya Sanhita together with serious offences under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The allegations, if ultimately established, disclose offences of grave nature affecting not only the bodily integrity and dignity of the victim but also attracting the protective provisions enacted for members of the Scheduled Castes and Scheduled Tribes. The seriousness of the allegations, the stage of investigation, the requirement of custodial interrogation and the materials presently available in the case diary are all relevant considerations while deciding the prayer for bail.

At this initial stage of investigation, where the investigating agency demonstrates the necessity of custodial interrogation supported by the materials collected, the Court ought not to frustrate the investigation by releasing the accused on bail unless the facts unmistakably warrant such exercise of discretion. In the present case, having regard to the nature and gravity of the accusations, the incriminating materials collected so far, and the requirement of further investigation, I am not persuaded to exercise the discretionary jurisdiction in favour of the accused.

Accordingly, the prayer for bail stands rejected.

Having considered the prayer of the Investigating Officer for police custody till 22.07.2026, submissions made by all parties regarding need and needlessness for police custody, the nature of the allegations, the brutal mode and manner in which the alleged offence (as per statement of the victim recorded by the Ld. Magistrate) is stated to have taken place, the progress of investigation and the necessity of custodial interrogation for effective investigation, I am satisfied that police custody of the accused is warranted. Consequently, the accused, Subhranil Ray, is remanded to police custody till 13.07.2026.

The Investigating Officer shall ensure that the accused is medically examined before being taken into police custody and again immediately before his production after expiry of the period of police custody, and also once in every 48 hours during the PC period, in accordance with law. The Investigating Officer shall ensure that the accused is not subjected to any physical or mental coercion and that all constitutional and statutory safeguards are scrupulously observed during interrogation. The accused shall be permitted to consult his Advocate during interrogation at intervals in accordance with the law laid down by the Hon'ble Supreme Court, though not throughout the interrogation. The Investigating Officer shall also ensure compliance with all mandatory provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 and other applicable legal safeguards relating to arrest, detention and custodial interrogation.

Let the accused be produced before the appropriate Court on 13.07.2026 for further orders.

Return and call for CD on 13.07.2026.

Let a copy of this order be supplied to the Learned Public Prosecutor, the Investigating Officer and the learned Advocates appearing for the parties, if applied for.

Disposal of another prayer of the accused person by a separate petition for return of the seized mobile phone of the accused person is kept in abeyance till his production from PC on 13.07.2026.

To date (**13.07.2026**) for final report.

Dictated and corrected by me

Additional Sessions Judge,
1st Court, Alipore

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