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(Ct. No. 29)
08.05.2026
(Susanta)

CRR 889 of 2026

Raju Majumdar

Vs.

The State of West Bengal & Anr.

Mr. Mayukh Mukherjee,
Ms. Sayanti Poddar,

...for the petitioner.

The petitioner herein is aggrieved with the order dated 06.12.2025 passed in T.R. Case No. 23 of 2025 by which the Court below has rejected the petitioner's prayer for discharge filed before the learned Special Court (POCSO) Court, Howrah under Section 250(2) BNSS.

Being aggrieved by the aforesaid proceeding, learned Counsel for the petitioner submits that the FIR discloses that someone has kidnapped the daughter of the complainant. However, a writ petition by way of habeas corpus was filed before this Court being WPA(H) 76 of 2024 wherefrom it appears that the learned advocate appearing for the State had clearly stated that the petitioner being the mother of the minor girl was at all material times aware of the whereabouts of the girl and therefore, this Court was of the view that the continuance of the habeas corpus writ petition would be mere abuse of the process of the Court and thereby it was dismissed.

Later on during investigation of the instant proceeding, the statement of the victim girl was also recorded under Section 183 of the BNSS, 2023, where the victim girl has clearly stated that she along with her maternal uncle/petitioner herein had gone to Pune

and she stayed there for about eight months before the police had brought her back but no one had kidnapped her nor any criminal act was inflicted upon her. Therefore, the petitioner has made a prayer before the learned Trial Court for his discharge but the Trial Court rejected such prayer on the ground that the victim was recovered from the possession of the accused after a long period and the consent given by minor is no consent, considering her age. However, Learned Judge observed in the same order that at the time of consideration of charge he will consider whether any offence committed under POCSO Act attracts or not.

Therefore, learned Counsel for the petitioner submits that definitely the entire prosecution case as reflected in the F.I.R., charge-sheet and accompanying material, even if they are taken at its face value, still it neither constitutes offence under Section 363/365 of the Indian Penal Code nor under Section 4/6 of the POCSO Act. There appears to be no material on record demonstrating wrongful confinement or abduction with intent as contemplated under the said provision. While the victim was examined by the Magistrate she had not disclosed any element of involuntary sexual act upon force or coercion. The prosecution has failed to attribute any specific aggravating factor contemplated under Section 5 of the Act and therefore the invocation of Section 6 of the POCSO Act is, arbitrary, mechanical and without any factual or legal foundation.

Therefore, the Court below was not justified in dismissing the petitioner's prayer for discharge.

Having heard the learned Counsel for the petitioner, the application stands admitted.

Petitioner is directed to serve a copy of application upon the State through the office of the Public Prosecutor, High Court Calcutta and upon the opposite party no. 2 through speed post intimating next date of hearing and to file affidavit-of-service on the returnable date.

Let the matter be listed in the **Monthly List of July, 2026** under the heading **“Contested Application”**.

Learned Counsel for the petitioners also prays for interim relief.

Having heard the learned Counsel for the petitioner and that the petitioner has made out an arguable case which requires adjudication on merit, let the impugned order dated 06.12.2025 passed in T.R. Case No. 23 of 2025 be stayed for a period of twelve weeks or until further orders whichever is earlier

Urgent Photostat certified copy of this order, duly applied for, be given to the parties upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)