

18.09.2025
Item no.2
Court No.42
ss
(Dismissed)

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION**

CRM (M) 1555 of 2025

In Re: An application for bail under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with C. Special Case No.31 of 2024 arising out of Hariharpara P. S. Case No. 36 of 2024 dated 27.01.2024 under Sections 363/302/34 of the Indian Penal Code and charge sheet submitted under Sections 363/302/34 of the Indian Penal Code, corresponding to charges framed under Sections 363/506/120B/302/201/34 of the Indian Penal Code read with Sections 17/21 of the Protection of Children from Sexual Offences Act, 2012 (POCSO) now pending before the learned Judge, Special Court under POCSO Act, Berhampore, Murshidabad.

In Re : **Rintu Khan @ Kalu & Anr.**

.... Petitioners

Mr. Shekhar Kumar Basu, Sr. Adv.
Mr. Antarikhya Basu
Mr. Sayan Mukherjee,
Ms. Madhumita Basak

...for the Petitioners

Mr. Bibaswan Bhattacharya,
Ms. Poulami Bose

...for the State

Mr. Tarunjyoti Tewari
Ms. Kousiki Bose

... for the *de facto* complainant

1. Petitioner no.2 renews her prayer for bail.
2. Learned Senior Advocate for the petitioners submit that the charge-sheet has been submitted against the petitioners who happen to be the parents of the principal accused under Sections 363/302/34 of the Indian Penal Code and no offences under the Protection of Children from Sexual Offences Act, 2012 (*in short, 'POCSO Act'*) was attributed to the petitioners. However, charges have been framed against the petitioners

under Sections 363/506/120B/302/201/34 of the Indian Penal Code read with Sections 17/21 of the POCSO Act. The statement of the witnesses under Sections 161/164 of the Cr.P.C. recorded during the course of investigation does not reveal of any sort of circumstances leading to complicity of the parents of the principal accused in the alleged offence. There is no iota of evidence of last seen together. The prosecution case is totally based on circumstantial evidence. It is a trite law that the prosecution has to establish such circumstance, which is conclusive in nature and the chain of evidence is so complete so as not to leave any reasonable ground of the innocence of the accused, which is starkly absent in the present case. To buttress his contention he relies on the decision of Hon'ble Chhattisgarh High Court passed in ***Laxman Singh -versus- State of Chhattisgarh*** reported in ***Law Finder Doc Id # 2141843***. The petitioner no.1 is in custody for about 510 days and petitioner no.2 is in custody for about 598 days. He also informs the Court that two out of forty-six charge-sheeted witnesses have been examined and both of them is declared hostile by the prosecution. He seeks for enlargement of the petitioners on bail.

3. Opposing such prayer for bail, learned Advocate for the State submits that in the earlier bail application being CRM (DB) 1582 of 2024 filed by petitioner no.2, mother of the principal accused, the Hon'ble Court has observed of the complicity of the said accused from the statements of the witnesses, which have not been assailed. The petitioner no.1 is the father of the principal accused facing similar charges. The case of the prosecution is of murder of one 13 year old victim girl. The

injury as is revealing from the postmortem report is grave one. He informs this Court that out of forty-five witnesses the prosecution intends to examine thirty-nine witnesses. Trial is in progress and next date is fixed on 10th of October, 2025. In view of his submissions, he seeks for dismissal of the bail application.

4. Learned Advocate for the *de facto* complainant opposing the prayer for bail at the very outset submits that there has been continuous threat upon the family members of the victim from the side of the petitioners, who are very much influential persons. In the first postmortem, no such specific injuries of the victim were noted. Upon a direction of the Hon'ble Writ Court, a second postmortem report was conducted. The second postmortem report shows presence of significant and grievous injuries. The petitioners being the parents of the principal accused are very much involved in the offence which is alleged by the complainant. He also submits that an application was filed before the learned trial court seeking reinvestigation by the Central Bureau of Investigation (*in short*, 'CBI'). The same has been rejected by the learned trial court. Assailing such order, the *de facto* complainant has filed a revisional application being CRR 3291 of 2024, which is pending before this Hon'ble Court. He seeks for dismissal of the bail application.

5. Perused the case diary and materials on record.

6. In the earlier bail petition filed by the petitioner no.2 being CRM (DB) 1582 of 2024 this Hon'ble Court upon considering the statement of the witnesses recorded under Sections 164 and 161 of the Cr.P.C. observed that the complicity of the petitioner no.2

in the heinous crime cannot be ruled out. The petitioner nos.1 and 2 being the parents of the principal accused are similarly circumstanced and similar charges are framed against them.

7. In a recent decision of the Hon'ble Supreme Court in ***Renuka vs. State of Karnataka & Anr.*** reported in **1025 INSC 596**, the Hon'ble Court observed as follows:

"17. Finally, it is argued there are case and counter case and proceeding against parents-in-law have been quashed by the coordinate bench. Noting the parents-in-law are septuagenarian and there is no whisper in the FIR that they participated in the assault, proceeding against them was quashed. Uncontroverted allegations in the FIR/Chargesheet unequivocally implicate respondent husband in the assault. He stands on the same footing with the 8 other in-laws i.e. brother-in-law/sisters-in-law against whom the proceeding was not quashed in Criminal Petition No. 101599 of 2021. Though the order refusing to quash the proceeding against some of the in-laws was passed earlier, it is inexplicable why there is no reference to the said order in the impugned order quashing proceeding against the respondent-husband. It was incumbent on the Judge while quashing the proceeding against the respondent husband to refer to the earlier decision of the co-ordinate bench and distinguish the reasons therein to arrive at a different conclusion. Failure to do so infracts judicial propriety and discipline. Consistency in judicial outcomes is the hallmark of a responsible judiciary. Inconsistent decisions coming out from different benches shake public trust and reduce litigation to a punter's game. It gives rise to various insidious sharp practices like forum shopping spoiling the clear stream of justice. Impugned order suffers from the vice of judicial caprice and arbitrariness and is liable to be set aside also on this score."

8. Both the postmortem reports record that the death of victim was due to effects of strangulation by ligature. The second postmortem report records of significant injuries.

9. So far as the decision in *Laxman Singh* (supra) is concerned, such primary principle relating to circumstantial evidence is applicable when the evidence of the witness in a trial is concluded and requires to be examined by the Court at an appropriate stage and not at the stage of bail hearing.

10. Bearing in mind the observation of this Court in earlier bail application, the observation of Hon'ble Supreme Court and

considering the above incriminating materials and the nature and gravity of the offence, this Court is not inclined to grant bail to the petitioners.

11. Accordingly, the bail prayer of the petitioners is rejected.

12. However, learned trial court is directed to expedite the trial to the fullest extent and conclude the same at an early date without granting any unnecessary adjournment to either of the parties.

13. The prosecution is directed to produce witnesses as per schedule fixed by the trial court for examination of witnesses.

14. The parties are directed to cooperate in the trial for examination of the witnesses.

15. Parties are at liberty to communicate this order to the learned trial court.

16. The application for bail being **CRM (M) 1555 of 2025** stands dismissed.

(Bivas Pattanayak, J.)