September 16, 2026
Sl. No.6
Court No.11
s.biswas

CRA(DB) 28 of 2026
with
CRAN 2 of 2026

Shiba Shaw
Vs.
The State of West Bengal and another

In re: An application under Section 374(2) of the Cr.P.C. corresponding to Section 415(2) of the BNSS.

Mr. Atish Kumar Biswas
Mr. Suman Chakraborty
Mr. Rudransu Das
... for the appellant

Mr. Kallol Mondal, PP
Mr. Anamitra Banerjee
Ms. Triparna Roy
... for the State

Mr. Bibasan Bhattacharyya
Mr. P. Roy
... for the victim (through CHCLSC)

This is an application for suspension of sentence for grant of bail filed in connection with the appeal preferred against an order of conviction and sentence. The appellant was convicted of offences under Section 376AB of IPC and Section 6 of the POCSO Act, 2012 and was sentenced to suffer rigorous imprisonment for 20 years and with fine of Rs.10,000/-, in default, 6 months' simple imprisonment.

Mr. Biswas, learned advocate appearing for the appellant/applicant strenuously argues that the appellant has been falsely implicated as there was a land dispute between the parties. He had already suffered detention for a substantial

period of time and there is also no possibility towards early disposal of the present appeal.

Drawing our attention to the depositions of P.W. 5 and P.W. 7, Mr. Biswas contends that they could not establish their presence at Haripal Rural Hospital. They were also not interrogated by the police. The deposition of P.W. 12 being the Medical Officer at Haripal Rural Hospital fortifies the falsity of allegation of profuse bleeding. In view thereof, the ingredients of Section 6 of the POCSO Act could not have been drawn against the appellant and his culpability has not been established on the basis of the material evidence. In the said conspectus, as an arguable case has been made out by the appellant, the sentence imposed him may be suspended on any stringent condition.

Mr. Bhattacharya, learned advocate appearing for the victim girl submits that the appellant was all along in custody during the trial. The materials on record would clearly reveal the direct involvement of the appellant in the offences.

Mr. Banerjee, learned advocate appearing for the State denies the contention of Mr. Biswas and submits that upon considering the material evidence on record, the learned Trial Court arrived at the finding of guilt against the appellant and this is not a fit case for suspension of sentence.

We have heard the learned advocates appearing for the respective parties and assessed the quality of evidence recorded by the learned Trial Court. *Prima facie*, the evidence on record

clearly reveals the culpability of the appellant. Having regard to the severity of the offence and the strength of the prosecution case, we are not inclined to exercise any discretion in favour of the appellant.

Accordingly, the application being CRAN 2 of 2026 is dismissed.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Rishad Medora, J.) **(Tapabrata Chakraborty, J.)**