15.10.2026
Sl. No. 3
Court No.550
Rohan
(Rejected)

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION
APPELLATE SIDE

C.R.M.(M) 2563 of 2026

In Re: An application for bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Bishnupur Police Station Case No. 359 of 2024 dated 31.03.2024 under Sections 364/201/302/120B/34 of the Indian Penal Code, 1860.

-And-

In the matter of: Ashadul Gazi @ Asadul Gazi

...Petitioner

Mr. Sandipan Ganguly, Sr. Adv.
Mr. Dipanjan Dutta
Mr. Soumya Nag
Ms. Sampriti Saha
Mr. Rajdeep Sengupta

... for the Petitioner

Mr. Kallol Mondal, PP
Mr. Brajesh Jha, APP
Ms. Sanjana Jha

... for the State

1. Mr. Ganguly, learned senior advocate for the petitioner, submits that the petitioner was falsely implicated in this case only because of the fact that the petitioner was an associate of the present Member of Legislative Assembly, Dilip Mondal, who is also in the custody. The FIR was lodged on 31st March, 2024 alleging that the husband of the *de facto* complainant was abducted but subsequently, after two years, and more particularly, after the change in Government, the Investigating Officer suddenly woke up from his deep slumber and arrested the present petitioner and others on the basis of the statements of the alleged eye-witnesses that the husband of the *de facto* complainant was manhandled and thereafter, was taken in a dumper with an aim to kill him.

Subsequently, some bones were recovered from Sarada Garden, Diamond Harbour and it was alleged that the said bones belonged to deceased Suraj Malik. There is no evidence to connect the present petitioner with the alleged commission of offence, however, as the petitioner is in custody for more than 3 months and charge-sheet has already been submitted, there is no need for custodial detention of the present petitioner. Mr. Ganguly has also pointed out that in several cases, the petitioner was granted bail by the learned Trial Courts. Mr. Ganguly has also drawn the attention of this Court to several documents in connection with the relevant case. According to him, these statements of witnesses recorded under Sections 161 of Cr.P.C./180 of BNSS and 164 of Cr.P.C./183 of BNSS were recorded after the change in guard in the Office of the Government and a cursory glance will show that such statements were manufactured only to implicate the present petitioner. The Investigating Agency has not been able to establish, till date, that the bones recovered from the said Sarada Garden belonged to the abducted person, Suraj Malik. Merely on the basis of suspicion, no one can be kept in custody for an indefinite period.

2. Mr. Mondal, learned Public Prosecutor, has vehemently opposed the prayer for bail. According to him, the investigation did not proceed after lodging of FIR since the petitioner and his leader, Dilip Mondal, belonged to a political party which ran the Government in the State of West Bengal and as a result of which, the witnesses did not dare to open their mouth. After the change in Government, the witnesses disclosed what actually happened to Suraj Malik and thereafter, the investigation has geared up. He

has drawn the attention of this Court to several statements of the witnesses recorded under Sections 161 of Cr.P.C./180 of B.N.S.S. and 164 of Cr.P.C./183 of B.N.S.S. He has further pointed out that after killing the husband of the *de facto* complainant, his dead body was kept underneath the ground of Sarada Garden. Steps are taken to collect the DNA samples of the son of the deceased and DNA profiling will be completed within 7 days and as such, he opposes the prayer for bail, vehemently.

3. I have gone through the materials on record and also the order dated 14th October, 2026, whereby, this Court directed the Investigating Officer to take steps for DNA examination of the samples. Today, one report is filed from the Administrator, Forensic Science Laboratory, West Bengal, wherein, it has been mentioned that till submission of the report on 15th October, 2026, the said authority did not receive the exhibits for submission of DNA examination report. Other reports were also filed showing that blood samples of the son of Suraj Malik was collected on 14th October, 2026 and wife of Suraj Malik has put her signature. As the Forensic Science Laboratory, West Bengal did not receive the exhibits as stated above, the report could not be furnished.

4. The petitioner is claiming that if the husband of the *de facto* complainant was taken by a dumper from Sarada Garden, it is improbable that his bones or dead body will be exhumed from Sarada Garden. The petitioner is also claiming that after the change in Government, the witnesses are claiming to be eye-witnesses to the incident that in Sarada Garden, the victim was subjected to torture by the present petitioner and others.

5. But the allegation that only after change in Government, the witnesses are alleging that the victim was manhandled in Sarada Garden, is not correct. Even in the year, 2024, i.e., on 31st March, 2024, the *de facto* complainant has clearly narrated in her statement that on 28th March, 2024, her husband left her house at around 04:00/05:00 P.M. and at that time, he told her that he was going to Sarada Garden. Subsequently, the *de facto* complainant went to Sarada Garden and enquired from the masons and labour about her husband and she showed photograph of her husband. After seeing the photograph, they told her that they saw her husband in Sarada Garden but they were unable to give any clue to the *de facto* complainant. Similarly, other witnesses, namely, Rabi Dalui, Sushmita Malik, Animesh Das and Rupali Malik were also examined on 31st March, 2024. They also supported the statement of the *de facto* complainant. The case diary at page No. 19 disclosed that on 3rd April, 2024 at 15:10 Hrs., the concerned Investigating Officer received CDR, SDR tower location and user particulars of Mobile No. 9007062561 and upon carefully analyzing the CDR, it has been ascertained that the location of missing person Suraj Malik was traced to Sarada Garden at the nearest time of his disappearance. The CDR was annexed from page 20 to page 33. On 8th April, 2024, the C.D. records that sniffer dog operation was conducted but no clue could be detected. Therefore, it cannot be said that after the change in guard in the office of the Government, the investigation geared up only to implicate the present petitioner and others. From the very beginning of the investigation, it is found that the victim was present in Sarada Garden. His last tower location indicated that he was present at Sarada Garden. Now, if the

bones are recovered from Sarada Garden underneath the ground, it cannot be doubted, at this stage, regarding genuineness of the investigating agency's plea. As the matter is very serious, I directed yesterday to complete the DNA test examination process as early as possible and from the record, it appears that although the said process could not be completed within 24 hours, effective steps are taken to collect blood samples from the son of the victim and the State has sought for little accommodation for completing the process. However, as the matter is serious enough and I also find that the last tower location of the missing person was found in Sarada Garden, and further, some skeletal bones were recovered from the ground of Sarada Garden, I cannot allow the prayer for bail of the petitioner at this stage, particularly when the witnesses have said that the present petitioner was present at the time of assaulting the victim at Sarada Garden.

6. Accordingly, the prayer for bail of the petitioner, namely, **Ashadul Gazi @ Asadul Gazi** is **rejected**.

7. With the aforesaid observation, **CRM (M) 2563 of 2026** is **dismissed**.

8. All parties shall act in terms of the server copy of the order downloaded from the official website of this Court.

9. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Apurba Sinha Ray, J.)