

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI

CRM 108 of 2021
(Through Video Conference)

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with Dhubguri P.S. Case No. 02 of 2020 dated January 1, 2020 under Sections 363/365 of the Indian Penal Code, 1860 and addition Section 376 (3) of the Indian Penal Code, 1860 and Section 6 of the Protection of Children from of Sexual Offences Act, 2012.

And

In the matter of: Mafiful Islam @ Rahul @ Babu.

.... Petitioner

Mr. Hillol Saha Podder

... For the Petitioner

Mr. Nilay Chakraborty,

Mr. Sagnik Sankar Sikdar

... For the State

Learned counsel for the petitioner submits that the age of the victim girl was more than 15 years at the relevant point of time. It is submitted that there is insufficient disclosure in the statement under Section 164 of the Code of Criminal Procedure as regards the commission of the offence by the petitioner.

Learned counsel representing the State opposes the prayer for bail.

It appears from the statement given by the victim girl under Section 164 of the Code of Criminal Procedure that there is scope of doubt as to whether the victim voluntarily went with the petitioner and had any prior romantic relation with the petitioner.

In such view of the matter, we are of the opinion that the benefit of bail ought to be granted to the petitioner; more so, since the petitioner is already in custody for 230 days. Accordingly, CRM 108 of 2021 is allowed, thereby granting bail to the petitioner on condition that the petitioner furnishes a bond of Rs.10,000/- (Rupees Ten Thousand only), with two sureties of like amount each, to the satisfaction of the learned Additional Session Judge, 2nd Court, Jalpaiguri (Designated Special Judge under the POCSO ACT)

The petitioner shall not issue, directly or indirectly, any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade such person from disclosing such facts before any police officer or the court and/or tamper with evidence. Further, the petitioner shall attend each date of trial when the same commences and shall not leave the jurisdiction of the trial court throughout the course of the trial.

(Sabyasachi Bhattacharyya, J.)

(Kausik Chanda, J.)