

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Criminal Miscellaneous Jurisdiction**

**CRM 238 of 2021
(Via Video Conference)**

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bhaktinagar Police Station Case No. 695 of 2018 dated 19.09.2018 under Section 307 Indian Penal Code adding Sections 326/302 Indian Penal Code adding Section 6 of POCSO Act.

And

In the matter of: Nipul Mistri

.... Petitioner

Mr. Jaydeep Kanta Bhowmik

... For the Petitioner

Mr. Tapan Bhattacharjee,
Ms. Namrata Das

... For the State

Learned counsel for the petitioner submits that the petitioner had surrendered on being accused of the relevant provisions. Subsequently, sections under the POCSO Act were also added. It is submitted that the petitioner's conduct has been exemplary in the sense that the petitioner has been complying with all directions passed by the courts below at the relevant points of time. It is further submitted that the medical report make it apparent that, although there was ligature mark on the neck of the victim, the death occurred six months thereafter. Moreover, the physical condition of the victim girl appears from the report to have been otherwise frail.

That apart, no statement was taken from the victim girl during the period when she was alive. As such, the allegations against the petitioner, although having some gravity, do not appear at this stage to be *prima facie* substantial to curtail the personal liberty of the petitioner.

After hearing learned counsel for both sides, the prayer for bail made by the petitioner, namely, Nipul Mistri, is allowed on the following conditions:

The petitioner shall furnish a bond of Rs.10,000/- each with two sureties for like amount to the satisfaction of the Special Judge designated under the POCSO Act. The petitioner shall act in accordance with the conditions of the bond.

The petitioner shall not commit an offence similar to the offence of which he is accused and the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him or her from disclosing such facts to the court or to any police officer or tamper with the evidence.

Further, the petitioner shall attend the trial on every date.

In the event the petitioner fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this court.

CRM 238 of 2021 is thus allowed with the above observations.

(Sabyasachi Bhattacharyya, J.)

(Kausik Chanda, J.)