

17.08.2021

court no. : 28
Item no. : JCB - 06
matter : 439
status : REJECTED
transcriber : nandy

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT
JALPAIGURI**

(Via Video Conference)

CRM 786 of 2021

In Re:- An application for **Bail** under Section **439** of the Code of Criminal Procedure filed on 29.07.2021 in connection with Jalpaiguri Women Police Station Case No. 167 of 2019 dated 26.12.2019 under Section 6 of the Protection of Children from Sexual Offences Act read with Section 363 of the Indian Penal Code and Section 77 of the Juvenile Justice Act.

and

In the matter of: **Tapash Sarkar @ Hodol**

.....Petitioner

Mr. Anirban Banerjee, Advocate

.....for the Petitioner

Mr. Arun Sarkar, Advocate

Mr. Biswarup Roy, Advocate

.....for the State

The Advocate-on-record of the petitioner undertakes to affirm and stamp the petition/application as per the Rules within four weeks from date. Subject to such undertaking the application is taken up for hearing.

The petitioner has filed the instant application for bail in connection with Jalpaiguri Women Police Station Case No. 167 of 2019 dated 26.12.2019 under Section 6 of the Protection of Children from Sexual Offences Act read with Section 363 of the Indian Penal Code and Section 77 of the Juvenile Justice Act.

The petitioner is in custody for nearly 236 days in connection with the afore-mentioned case. It is submitted by the learned Advocate for the petitioner that the petitioner has been falsely implicated in the instant case and there is no element of commission of an offence at his behest. It is further submitted that

another co-accused had already been enlarged on bail and, therefore, there is no necessity for keeping the petitioner in custody.

The State opposes the prayer for bail. It is submitted that heinous crime has been committed and the minor girl has vividly recollected and narrated the incident took place on such fateful day.

After hearing the respective submissions and on perusal of the statements of the minor victim girl recorded under Section 164 of the Code of Criminal Procedure as well as the medical report we do not think this is a fit case where the petitioner should be released on bail. Furthermore, the other co-accused, who had been granted bail, does not stand on the same pedestal as of the petitioner and, therefore, the plea of parity is not applicable.

As such, the prayer for bail is **rejected**.

The application being **CRM 786 of 2021** is accordingly **dismissed**.

(Harish Tandon, J.)

(Bibek Chaudhuri, J.)