

21.09.2021
Court No.01
Item No. 15
Krishnendu
Bail Granted

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

(Via Video Conference)

C.R.M. 865 of 2021

In Re: An application under Section 439 of the Code of Criminal Procedure ;

And

In Re : **Gopal Barman**

....Petitioner

Mr. Hillal Saha Podder
Mr. Bablu Mitra

... For the Petitioner

Mr. Aditi Shankar Chakraborty, Id. A.P.P.
Mr. Sagnik Sankar Sikdar

... For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Dhupguri P.S. Case No. 312 of 2020 dated 02.09.2020 under sections 363/365/376 of the Indian Penal Code and section 4 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Case No. 88 of 2020).

Mr. Saha Podder, learned advocate appearing for the petitioner, submits that the petitioner has been falsely implicated. There was a love relation between the petitioner and the victim girl. The father of the victim girl lodged the complaint dated 2nd September, 2021 about nine days after the girl went missing on 23rd August, 2021, and after her recovery on 31st August, 2021. Upon completion of investigation, charge sheet has already been submitted. However, the charges have not yet been framed and the petitioner has already suffered long incarceration for about one year seventeen days. There is also no likelihood that the petitioner

would delay the trial by abscondence and as such further detention of the petitioner is not necessary.

The learned advocate appearing for the State opposes the petitioner's prayer drawing our attention to the statement of the victim girl, as recorded under section 164 of the Code of Criminal Procedure and the medical report.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

Prima facie, the medical report does not support the prosecution case. It does not appear that the girl was persuaded to leave her paternal house and it cannot be ruled out that being a girl of 17 years she was not aware of the consequences of the relationship. There is also no possibility towards early conclusion of the trial and the petitioner has already suffered incarceration for about one year seventeen days.

In view thereof, we are of the opinion that further detention of the petitioner is not warranted in the facts and circumstances of the case.

Accordingly, we allow this application and direct that the petitioner, namely, **Gopal Barman**, shall be released on bail upon furnishing a bond of Rs. 10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under POCSO Act, Jalpaiguri and on further condition that the petitioner shall not enter the jurisdiction of Dhupguri Police Station, save and except for meeting with the

Officer-in-Charge of the concerned Police Station once a fortnight on and from 29th September, 2021 until further orders.

It is further directed that the petitioner shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever. He shall appear before the learned Special Court on all the dates specified for hearing.

It is made clear that in the event the petitioner fails to comply with any of the aforesaid directions, without justifiable cause, the learned Court below shall be at liberty to cancel the petitioner's bail without any further reference to this Court.

The application for bail, being C.R.M. 865 of 2021, is disposed of.

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

(Abhijit Gangopadhyay, J.) (Tapabrata Chakraborty, J.)