

24.12.2021
Court No.01
Item No. 18

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

sg

**CRM 1086 of 2021
(Via Video Conference)**

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kotwali Police Station Case No. 337 of 2021 dated 02.07.2021 under Sections 363/365/34 of the Indian Penal Code read with Section 6 of the POCSO Act.

And

In Re: **Joydeb Barman @ Joydip Barman**

Petitioner

Mr. Jaydeep Kanta Bhowmik

For the Petitioner

Mr. Abhijit Sarkar
Ms. Namrata Das

For the State

The learned Counsel for the petitioner submits that the petitioner is innocent and is in a love relationship with the victim.

The learned Counsel for the State, however, opposes the prayer for bail.

Having considered the materials available on record and more particularly the statement of the victim recorded under Section 164 of the Code of Criminal Procedure and also taking into consideration the period of incarceration, we feel that further detention of the petitioner is not required.

We direct that the petitioner, namely, Joydeb Barman @ Joydip 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 Additional Sessions Judge, 2nd Court, Jalpaiguri on condition that the petitioner shall comply with the provision of Section 437(3) of the Code of Criminal

Procedure and the petitioner shall appear before the learned trial court on each and every date till the conclusion of trial.

The learned Counsel for the petitioner has taken a plea that at the time of commission of the alleged offence, the petitioner was minor and it is submitted that such plea was raised before the learned Trial Court.

Be that as it may, in the event such plea is raised before the learned Trial Court, the said issue shall be decided in terms of the decision of the Hon'ble Supreme Court in *Rishipal Singh Solanki vs. State of Uttar Pradesh & Ors.* Reported in 2021 SCC OnLine SC 1079 (paragraph 32) as expeditiously as possible.

The application for bail of the petitioner is allowed. CRM 1086 of 2021 is accordingly, disposed of.

Photostat plain copy of this order duly counter-signed by the Assistant Registrar (Court) be given to the parties on usual undertaking.

(Biswajit Basu, J)

(Soumen Sen, J)