

**Circuit Bench of Calcutta High Court At Jalpaiguri**  
**CRM (DB) 11 of 2022**

**In re:** An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Banarhat Police Station** Case No. **146 of 2020** dated **02.08.2020** under Section **376(2)(n)** of the Indian Penal Code and read with Sections 6 and 12 of the POCSO Act and read with Section 67(B) of the IT Act and read with Section 3(1)(xii) of the SC/ST (POA) Act.

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**In the matter of : Kundan Rai**

.... Petitioner.

Mr. J. K. Bhowmick,

... For the Petitioner.

Mr. Arun Sarkar,  
Mr. S. S. Sikdar,

... For the State.

The petitioner says that he had a long standing relationship with the victim. Such relationship turned sour over some misunderstanding. The FIR was lodged six months after the alleged incident. The petitioner has no involvement in the alleged incident. He is in custody for about 528 days. Charge sheet has been submitted. He prays for bail.

The State opposes the prayer for bail.

We have seen the material in the case diary including the statement of the victim lady recorded under Section 164 of the Code of Criminal Procedure. We have seen the medical report as well. The medical report, *prima facie*, does not support the prosecution case.

On an overall assessment of the facts and circumstances of the case and keeping in mind that charge sheet has been

submitted upon completion of investigation, we are of the view that no useful purpose will be served by continued detention of the petitioner.

Accordingly, we direct that the petitioner, namely, **Kundan Rai**, 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, 2<sup>nd</sup> Court, Jalpaiguri-cum-Learned Special Judge, under the POCSO Act and on further conditions that he shall not leave the jurisdiction of the concerned police station and shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders. The petitioner shall appear before the trial Court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this court.

The application for bail is, accordingly, allowed.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

( **Aniruddha Roy, J.**  )

( **Arijit Banerjee, J.**  )