

28.02.2022

COURT : 01
ITEM : 32
MATTER : 439
STATUS : ALLOWED
TRANSCRIBER : nandy

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

CRM (DB) 26 of 2022

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed on January 24, 2022 in connection with Jalpaiguri Women Police Station Case No. 52 of 2021 dated 05.05.2021 under Section 376DA of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act.

And

In the matter of : **Hira Basak**

...Petitioner

Mr. Debajit Kundu, Advocate

...for the Petitioner

Mr. Abhijit Sarkar, Advocate

Mr. Saikat Chatterjee, Advocate

...for the State

The petitioner has been apprehended in connection with the aforementioned case and is languishing in jail for nearly 300 days. The petitioner along with the other accused persons was apprehended on the basis of the statement of the minor victim girl alleging offence under Section 376DA of the Indian Penal Code and Section 6 of the POCSO Act.

The learned Advocate for the petitioner submits that he is entitled to bail as the co-accused who stands on the same footing as that of him, has been enlarged on bail by this Court vide order dated January 6, 2022 passed in CRM (DB) 1 of 2022.

We had an occasion to peruse the findings made in the said order and also the statement of the minor victim girl recorded under Section 164 of the Code of Criminal

Procedure as well as the medical report. We find that the petitioner stands on the same footing as that of the other co-accused namely Ranjan Roy @ Dipu Roy who has been granted bail by this Court. We find no justification in not extending the same benefit to the petitioner on the ground of parity.

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

Accordingly, the petitioner namely **Hira Basak**, shall be released on bail upon furnishing a bond of Rs.10,000/-, with two sureties of Rs.5,000/- each, one of whom must be local to the satisfaction of learned Judge, Special Court under the POCSO Act, Second Court Jalpaiguri and/or the relevant Court in-charge thereof, and on further conditions that the petitioner shall not enter the jurisdiction of Kotlwai Police Station except for attending Court proceedings and shall provide the address where he shall be presently reside to the Officer-in-charge of the concerned police station. The petitioner shall also meet the Officer-in-charge of the concerned police station once in a fortnight until further order.

The petitioner shall appear before the trial Court on every date of hearing until further order 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 any 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 being **CRM (DB) 26 of 2022** is accordingly **disposed of**.

(Harish Tandon, J)

(Rabindranath Samanta, J)