

**In the High Court at Calcutta
Circuit Bench at Jalpaiguri
(Through Video Conference)**

28.07.2022
cm/ct 28

C.R.M. (DB) No. 272 of 2022

sl. no. 3

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Cooch Behar Women **P.S (Sadar) Case No. 130 of 2021** dated **16.10.2021** under Section **363** of the Indian Penal Code and Sections 6 of the Protection of Children From Sexual Offences Act Alternatively under Section 376(2)(g) of the Indian Penal Code.

Rejected

And

In Re : Pintu Miah @ Rahul @ Pintu

..... petitioner

Mr. Jaydeep Biswas
Mr. Kaushik Ghosh

..... for the petitioners

Mr. Aditi Shankar Chakraborty, Ld.A.P.P.
Mr. Biswaroop Roy

..... for the State

Petitioner is in custody for 286 days. It is submitted that there is variation in the statement of the victim girl recorded under Section 161 Cr.P.C. and under Section 164 Cr.P.C. Medical report also does not support the case of rape.

Learned lawyer for the State opposes the prayer for bail.

We have considered the materials on record including statement of the victim recorded under Section 161 Cr.P.C. and Section 164 Cr.P.C. Both the statements would show that petitioner has named the person who had ravished the victim. History of injury under medical papers also refers to rape. Non rupture hymen per se does not rule out the allegation of rape.

Under such circumstances and gravity of the offence, we are not inclined to grant bail to the petitioner.

Accordingly, the prayer for bail of the petitioner is rejected at this stage.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)