

D/L. 38
January 31, 2023
MNS

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (DB) 12 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 03.01.2023 in connection with Special Case No. 61 of 2022 arising out of Falakata Police Station Case No. 296 of 2022 dated 15.05.2022 under Sections 363/365 of the Indian Penal Code and adding Section 6 of the Protection of Children from Sexual Offences Act, 2012.

And

In the matter of: Samir Khan @ Samir islam

.... Petitioner

Mr. Hillol Saha Podder,
Ms. Mosumi Das

... for the petitioner

Mr. Kallol Acharjee,
Mr. Kallol Nag

... for the State

Heard learned counsel for the parties.

The State opposes the prayer for bail.

In the present case, Section 6 of the Protection of Children from Sexual Offences Act, 2012 was *inter alia* levelled against the petitioner. However, we see from the arguments of the parties and from the materials on record, particularly the statement of the alleged victim under Section 164 of the Code of Criminal Procedure, that there was patently a romantic relationship between the petitioner and the victim girl. The petitioner is aged about 22 years and the victim is aged about 16 years, which cannot rule out the presumption of the romantic affair being consensual between the two.

Keeping in view of the mature age of the victim, although falling within the purview of POCSO Act, we are of the opinion that the benefit of doubt ought to be extended to the petitioner for the purpose of granting bail.

Accordingly, CRM (DB) 12 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner furnishes bond of Rs.5,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Special Judge under the POCSO Act at Alipurduar.

The petitioner shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend the trial on each and every date. The petitioner shall not make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)