

D/L. 42
February 1, 2023
MNS

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

CRM (DB) 24 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 Dinhata Police Station Case No. 535 of 2022 dated 24.10.2022 under Sections 363/365/34 of the Indian Penal Code and adding Section 4 of the Protection of Children from Sexual Offences Act.

And

In the matter of: Robel Miah @ Rubel @ Rabiul Haque

.... Petitioner

Mr. Sudip Guha

... for the petitioner

Mr. A. S. Chakraborty,
Mr. S. S. Sikdar

... for the State

Heard learned counsel for the petitioner. There are several mitigating circumstances in the present case. It is submitted that the other accused person has been released on bail. That apart, the victim refused medical examination.

The State opposes the prayer for bail.

Keeping in mind that the victim is around 16 years of age, adverse inference may be drawn at a *prima facie* stage against the victim for having suppressed the best evidence by refusing medical examination. That apart, the petitioner is in custody for 86 days and the charge-sheet has already been filed in this case.

Hence, CRM (DB) 24 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner furnishes bond of

Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under POCSO Act, Dinhata. 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.)