

AD-40  
Ct No.01  
Jalpaiguri  
02.02.2023  
TN

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

**CRM (DB) 26 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 **Bhaktinagar** Police Station Case No. **898** of **2019** dated **17.11.2019** under Section **6** of the **POCSO Act, 2012** read with Sections **325/506 IPC, 1860.**

And

In the matter of: **Anath Das @ Abhijit Das**

.... Petitioner

Mr. Joydeep Kanta Bhowmik,  
Mr. Sayantan Bhowmik

... for the petitioner

Mr. Abhijit Sakar,  
Mr. Dhiman Sil

... for the State

Mr. Nabakumar Paul

....for the *de facto* complainant

Learned counsel for the petitioner contends that the petitioner is already in custody for 3 years, 2 months and 15 days. Although charges have been framed, the trial is yet to commence.

Learned counsel for the State vehemently opposes the prayer for bail and places reliance on the statement of the victim girl, who was about 15 years of age at the relevant juncture, under Section 164 of the Code of Criminal Procedure. The same, read in conjunction with the medical report, it is submitted, reveal clearly the active role of the petitioner in the offence.

Learned counsel for the *de facto* complainant submits that the victim girl is under constant intimidation from the mother of the

victim girl at the instigation of the petitioner, the principal accused, who has been regularly sending text messages to the mother of the victim.

It is further submitted that in the event the petitioner is let loose, the victim girl might be at risk.

Upon a careful consideration of the materials on record and the submission of the parties, we find that the petitioner is already in custody for a considerable period, that is, 3 years 2 months and 15 days. Since the petitioner, through counsel, specifically undertakes not to enter for the present into the territorial jurisdiction of the police station where the victim is residing, apart from the instances when the petitioner has to attend trial, we are of the opinion that the benefit of bail ought to be granted to the petitioner.

Accordingly, CRM (DB) 26 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner furnishes bond of Rs.20,000/-, 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), Second Court at Jalpaiguri.

The petitioner shall not enter the territorial jurisdiction of the police station where the victim is residing during the entire period of trial. Moreover, the petitioner shall attend trial as and when required and for such limited purpose shall be entitled to enter the jurisdiction of the concerned police station.

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.

It is further made clear that in the event of even a single default on the part of the petitioner in complying with any of the above conditions, the petitioner shall be taken in custody immediately.

**(Sabyasachi Bhattacharyya, J.)**

**(Rai Chattopadhyay, J.)**