

07.07.2023

Item no.4

Court No.1.

AB

(Allowed)

**Calcutta High Court  
In the Circuit Bench at Jalpaiguri**

**CRM (DB) No. 205 of 2023**

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure in connection with Dhupguri Police Station Case No.532 of 2022 Dated 9.9.2022 under Section 376 (AB) of the Indian Penal Code read with Section 6 of the POCSO Act

And

**In the matter of : Malay Barman**

**.....Petitioner.**

Mr. Sourav Ganguly,  
Mr. K. Chakraborty,  
Mr. Gopal Roy

.....for the Petitioner.

Mr. Kallol Acharjee,  
Ms. Namrata Das

.....for the State.

Heard learned Advocate for the petitioner and learned Advocate for the State at length.

At the very outset, learned Advocate for the petitioner submits before this Court that investigation has already been completed and charge has already been framed as against the petitioner. It is further argued that considering the discrepancies in the allegations in the written complaint, the version of the victim in her statement recorded under Section 164 Cr.P.C. and the version of the mother of the victim, it can be easily presumed that the present case is an absolutely false one wherein the present accused petitioner has been unnecessarily implicated.

Learned Advocate for the State, however, opposes such contention. It is contended that before the learned Trial Court, the case has matured for trial.

We have minutely perused the entire material in the case diary. We have also considered the rival submissions made at the Bar. Investigation is stated to have been completed in the meantime and charge is also stated to have been framed as against the present petitioner.

On a conjoint perusal of the written complaint, the statements as recorded under Section 164 Cr.P.C., as referred to above, as well as the medical examination report of the victim, we admittedly find some contradictions, which appear to be prima facie very prominent.

Such being the position, we are inclined to allow the prayer of the petitioner.

Accordingly, we direct that the petitioner, namely Malay Barman shall be released on bail upon furnishing a bond of Rs.10,000/-, with two registered sureties of like amount each, to the satisfaction of the learned Judge, Special Court under the POCSO Act at Jalpaiguri, and on further condition that the present accused petitioner shall appear before the Trial Court on each date of substantive hearing subject to the provisions of Section 317 Cr.P.C. and he shall meet the Investigating Officer of this case once in a week till conclusion of the trial unless the condition has been relaxed by the learned Trial Court. The petitioner shall not intimidate the witnesses and/or tamper with

evidence and/or commit any cognizable offence in any manner whatsoever.

In the event the petitioner fails to adhere to any of the conditions stipulated above without 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 for bail is, accordingly, allowed.

Urgent Photostat Certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

***(Partha Sarathi Sen, J.)***

***(Arijit Banerjee, J.)***