

08.06.2023
Court No.01
Item No. 13
Allowed

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

ar

CRM (DB) 239 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Jalpaiguri Women Police Station Case No. 136 of 2021 dated 22.11.2021 under Sections 376(2)(f)/109 of the Indian Penal Code read with Section 6/17 of the Protection of Children from Sexual Offences Act.

And

In Re: **Bijay Dhar**

..... Petitioner

Ms. Rupa Basu
Mr. Jaydeep Kanta Bhowmik
Mr. Sayantan Bhowmik
Ms. Rikta Sarkar

...For the Petitioner

Mr. Arijit Ghosh

... For the Defacto Complainant

Mr. Nilay Chakraborty
Mr. Sagnik Sankar Sikdar

...For the State

We have heard the learned counsel appearing for the parties.

The learned Counsel for the petitioner renews the prayer for bail. It is submitted that the petitioner has been falsely implicated. The petitioner is the uncle of the victim.

The learned Counsel for the de-facto complainant submits that on earlier two occasions the prayer for bail of the petitioner was rejected and there is no changing circumstances for which the matter can be revisited.

The learned Counsel for the prosecution opposes the prayer for bail and has referred to the statement of the victim under Section 164 of the Code of Criminal Procedure.

It appears that last rejection of prayer for bail took place on 8th February, 2023 and this application has been filed on the basis of the evidence of the victim recorded on 21st March, 2023 in which the victim has stated as follows:-

“I lodged complaint against my parents and my uncle for the reason that my father lodged a complaint against Jadav Barui to whom I love.

I took harsh step against my parents and my uncle in rage of heat.

I was upset at the relevant time due to reason that a complaint was filed by my father against my boyfriend Jadav Barui, as such I lodged complaint against my parents and my uncle in anger, who were against such relationship.

I made statement against my parents and my uncle in anger.”

The aforesaid evidence prima facie corroborates the stand taken by the petitioner that he is innocent and out of rage such complaint was made implicating the petitioner. Moreover, the charge-sheet has already been filed and there is no possibility of absconding, if the petitioner is released on bail.

On such consideration, we are of the view that further custodial detention of the petitioner is no more required and the petitioner may be released on bail.

Accordingly, the petitioner shall be released on bail upon furnishing a 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), Jalpaiguri subject to condition that he shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and the petitioner shall not leave the jurisdiction without the permission of the Court and he shall cooperate with the investigation.

In the event the petitioner fails to appear before the Trial Court without any justifiable cause, the trial Court shall be at liberty to cancel the bail in accordance with law without further reference to this Court.

The application for bail of the petitioner is allowed. CRM (DB) 239 of 2023 is, accordingly, disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Raja Basu Chowdhury, J)

(Soumen Sen, J)