

20. 04.07.2023
Court
No.1 Tanmoy Ghosh

Allowed

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

CRM (DB) 326 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973, in connection with **Jalpaiguri Women Police Station Case No. 04 of 2023** dated **24.01.2023** under Section **376(2)(1)** of the Indian Penal Code, 1860.
And

In the matter of: - **Amjad Ali**

...petitioner.

Mr. Biswarup Roy, Adv.

...for the petitioner.

Mr. Ujjwal Luksom, Adv.,
Ms. Namrata Das, Adv.

...for the State.

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

It is contended that considering the fact that the allegation, as made out in the FIR, is false and also considering the fact that investigation has already been completed, the present application for bail may be allowed.

While opposing the prayer for bail learned Advocate for the State submits before this Court that one similar application of the present accused petitioner was rejected on May 12, 2023, in CRM (DB) 235 of 2023, by a co-ordinate Bench.

We have perused the entire material as placed before us including the order dated May 12, 2023, as passed by the co-ordinate Bench.

Admittedly, the present accused petitioner is named in the FIR, but in our considered view, the statement of the victim as recorded under Section 164 of the Code of Criminal Procedure, 1973 as well as the medical examination report are somehow doubtful. Our view in this regard is tentative and the learned trial Court shall not be influenced by such observation at the time of trial.

Considering the aforementioned circumstances and also considering the fact that investigation has already been completed and in absence of any submission by way of any evidence that in the event the accused petitioner, is enlarged on bail, he may flee or abscond or may tamper with evidence, we are inclined to allow the application for bail.

Accordingly, we direct that the petitioner, namely, **Amjad Ali** 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 Chief Judicial Magistrate, Jalpaiguri, on condition that the petitioner shall meet the Officer-in-Charge of the Police Station within the jurisdiction of which he resides once every fortnight until further orders and shall not leave the district without leave of the Officer-in-Charge and on further condition that the present accused petitioner shall appear before

the learned trial Court on each date of substantive hearing subject to the provisions of Section 317 of Cr.P.C, the petitioner shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever and the petitioner shall not commit any cognizable offence in future.

In the event the petitioner fails to adhere to any of the conditions stipulated above without any 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 being CRM (DB) 326 of 2023 is, accordingly allowed and disposed of.

(Arijit Banerjee, J.)

(Partha Sarathi Sen, J.)