

29.
Court
No.1

11.07.2023
Tanmoy Ghosh

Allowed

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

CRM (DB) 389of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973, in connection with **Mekhliganj Police Station Case No. 360 of 2022** dated **30.10.2022** under Sections **313/506/34** of the Indian Penal Code, 1860 read with Sections **6/17** of the POCSO Act, 2012. Charge-sheet No.07 of 2023 dated 19.01.2023. POCSO Case No. 21 of 2022.

And

In the matter of: - **Paban Roy**

...petitioner.

Mr. Anirban Banerjee, 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.

On an overall perusal of the entire material in the case diary we find that in the statement of the victim recorded under Section 164 of the Code of Criminal Procedure, 1973, though there are materials to support the allegation of penetrative assault at the instance of the present accused/petitioner, we find no support in respect of the allegation made under Section 313 of the Indian Penal Code, 1860, as made out in the FIR. We also find *prima facie* material omissions in such statement.

Considering the discrepancy and/or omission and keeping in mind that investigation has been completed in the matter, we are inclined to allow the prayer for bail with some stringent conditions.

Accordingly, we direct that the petitioner, namely, **Paban Roy**, 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 POCSO Act) at Mekhliganj, Cooch Behar, on condition that the present accused/petitioner shall appear before the learned trial Court on each and every date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973 and on further condition that the present accused/petitioner shall not commit any threat and/or inducement and/or coerce either the victim girl or her relatives who have been arrayed as prosecution witnesses.

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) 389 of 2023 is accordingly allowed and disposed of.

(Arijit Banerjee, J.)

(Partha Sarathi Sen, J.)