

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

4.09.2023

Item no.72

Court No.01

P.P./S.D.

CRM (DB) 428 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure;

And

In Re: Sukumar Sarkar

.... petitioner

Mr. Ayan Bhattacharjee

Mr. Arijit Ghosh

Ms. Swarnali Ghosh

....for the petitioner

Mr. Sagnik Sankar Sikdar

..... for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred in connection with Ghoksadanga Police Station Case No.355 of 2022 dated 21.9.2022 under Sections 498A of the Indian Penal Code read with Section 9/10 of the Prohibition of Child Marriage Act, 2006 and Section 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

Mr. Bhattacharjee, learned advocate appearing for the petitioner submits that the petitioner is languishing in custody for 297 days and there is no possibility towards the conclusion of the trial in the near future. The complaint was lodged

belatedly without any appropriate explanation. The age of the victim girl has also not been appropriately verified. In the said conspectus, further custodial detention of the petitioner may not be necessary and he may be enlarged on bail on any stringent condition.

Mr. Sikdar, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to the medical report and the statement of the victim girl as recorded under Section 164 of the Cr.P.C. He further submits that the petitioner, who happens to be a person about 35 years old, has tortured the victim girl who, as stated in the complaint itself, was aged about 15 years. As there are strong incriminating materials on record, the petitioner's prayer may be refused.

Having heard the learned advocates for the respective parties, considering the materials on record, particularly the medical report and the statement of the victim girl, as recorded under Section 164, the gravity of the offence, the manner in which the offence has taken place and the extent of complicity of the petitioner in the alleged offence, we are not inclined to exercise discretion in his favour at this stage.

Accordingly, the application being CRM (DB) 428 of 2023 is dismissed.

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

(Lapita Banerji, J.)

(Tapabrata Chakraborty, J.)

