

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

**28.08.2023
Court No.01
Item No.7
P.P./S.D.**

CRM (DB) 470 of 2023

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

And

In Re: Saddam Hussain @ Rahit Khan & Anr.

...Petitioner

Ms. Esha Acharya

Mr. Sampad Das

....For the petitioner

Mr. Abhijit Sarkar

Mr. Sourav Ganguly

...For the State

Affidavit of service filed in Court today be kept with the
records.

The present application under Section 439 of the Code of
Criminal Procedure has been preferred in connection with
Falakata Police Station Case No.241 of 2021 dated 28.5.2021
under Sections 363/370(4) of the Indian Penal Code read with
Section 12 of the Protection of Children from Sexual Offences
Act, 2012.

Ms. Acharya, learned advocate appearing for the
petitioners submits that the petitioners have been falsely
implicated. The petitioner no. 1 is the driver of an Ambulance
and the petitioner no. 2 is the helper. The principal accused is
one Dibyendu Dey @ Monai, who is still in custody. The
petitioners have already suffered long detention since 11.7.2021.
The evidence of the victim girl has already been recorded and in

the said conspectus, the petitioners may be enlarged on bail on any stringent condition moreso, when upon completion of investigation chargesheet has already been submitted.

Drawing our attention to the statement of victim girl, as recorded under Section 164 of the Code of Criminal Procedure (in short, Cr.P.C.), Mr. Sarkar, learned advocate appearing for the State submits that the petitioners have direct nexus with the alleged offence. In view of the incriminating materials on record, the petitioners' prayer for bail needs to be refused.

We have perused the statement of the victim girl, as recorded under Section 164 of the Cr.P.C. The principal accused is one Dibyendu Dey @ Monai. Considering the extent of complicity of the petitioners in the alleged offence, the period of detention and as the victim girl has already deposed before the learned Court below, we are of the opinion that further detention of the petitioners is not necessary.

Accordingly, we allow this application and direct that the petitioners, namely, **Saddam Hussain @ Rahit Khan** and **Ganesh Debnath**, shall be released on bail upon furnishing a bond of Rs. 10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the Special Court under POCSO Act, Alipurduar.

The petitioners shall not enter the jurisdiction of Falakata Police Station. Within a week from date, the petitioners shall intimate the Inspector-in-Charge of Falakata Police Station the address where they would be residing and they shall meet with

the Inspector-in-Charge of the police station having jurisdiction over the place where they would be residing, once a week until further orders.

It is further directed that they shall not tamper with the evidence or influence the witnesses and shall attend the learned Court below on all the dates fixed for hearing.

It is made clear that in the event the conditions as stated above are not complied with, the learned Court below would be at liberty to cancel the petitioners' bail without any further reference to this Court.

With the above observations and directions, the application for bail, being C.R.M.(DB) 470 of 2023 is disposed of.

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.)