

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

**30.08.2023
Court No.01
Item No.19
Avijit Mitra**

CRM (DB) 506 of 2023

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

In Re: Biswadeb Roy

...Petitioner

Mr. Joydeep Kanta Bhowmik,
Mr. Sayantan Bhowmik

....For the petitioner

Mr. Ujjal Luksom,
Ms. Namrata Das

...For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred in connection with Maynaguri Police Station Case No.202 of 2021 dated 26.04.2021 under Sections 376D IPC read with Section 6 of POCSO Act, 2012.

Mr. Bhowmik, learned advocate appearing for the petitioner submits that the allegations levelled against the petitioner are unfounded. He has been falsely implicated. He has already suffered incarceration since 848 days. The victim girl as well as the Medical Officer have already been examined and in view thereof further detention of the petitioner may not be necessary.

Mr. Bhowmik further submits that the Medical Officer in course of his cross-examination clearly stated that he 'did not

find any injury report over the private part or any other part of the subject victim girl'

Such prayer has however been opposed by Ms. Das, learned advocate appearing for the State. She submits that in view of the gravity of the offence and the nature of accusations, the petitioner's prayer needs to be refused at this stage.

Prima facie, a perusal of the contents of the complaint and the statement of the victim girl as recorded under Section 164 of the Code, reveal inconsistencies. The medical report also does not *prima facie* corroborate the statement of the victim girl. Upon completion of investigation, chargesheet has also been submitted and the victim girl and the Medical Officer have also been examined.

Accordingly, we allow this application and direct that the petitioner, namely, **Biswadeb Roy**, 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 Additional Sessions Judge, 2nd Court, Jalpaiguri with a further condition that the petitioner shall not enter the jurisdiction of Maynaguri Police Station where the victim girl is residing.

The petitioner shall also meet with the Officer-in-Charge of Malbazar Police Station once a week until further orders.

The petitioner shall attend the learned Court below on all the dates as fixed for hearing.

It is further directed that the petitioner shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioner fails to comply with any of the aforesaid directions, without justifiable cause, the learned Court below shall be at liberty to cancel the petitioner's bail without any further reference to this Court.

The application for bail, being C.R.M. (DB) 506 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.)