

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

**28.08.2023
Court No.01
Item No.42
Avijit Mitra**

CRM (DB) 512 of 2023

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

And

In Re: Paban Adhikary @ Babanta Adhikary

...Petitioner

Mr. Joydeep Kanta Bhowmik,
Mr. Sayantan Bhowmik,
Ms. Rikta Sarkar

....For the petitioner

Mr. Kallol Acharjee,
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 New Jalpaiguri Police Station Case No.440 of 2021 dated 11.05.2021 under Sections 365/366A/323/354 of the Indian Penal Code and Sections 6/8 of POCSO Act.

Mr. Bhowmik, learned advocate appearing for the petitioner submits that there was enmity between two families and the petitioner has been falsely implicated. A co-accused person, namely, Krishna Jha has already been granted bail by the learned Court below.

He further submits that the petitioner has already suffered long incarceration for about 3 years. The minor victim girl had already deposed before the learned Court below on 9th August,

2023. There are 14 witnesses still to be examined and as such there is no possibility towards the conclusion of the trial in the near future. In view thereof, the petitioner may be enlarged on bail on any stringent condition.

The fact that the minor victim girl has already deposed before the learned Court below on 9th August, 2023, has not been disputed by Mr. Sikdar, learned advocate appearing for the State. He further submits that the allegations are very serious and there are incriminating materials on record against the petitioner.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

It appears that the complaint was lodged in the month of May, 2021. Upon completion of investigation chargesheet was submitted on 30th June, 2021. Till date it appears that save and except the minor victim girl, no further witnesses have been examined. The petitioner has already suffered long incarceration for about 3 years.

We have perused the statement of the minor victim girl as well as the statement of her elder sister as recorded under Section 164 of the Code and the contents of the FIR. Considering the manner in which the offence has taken place and the extent of complicity of the petitioner in the alleged offence, we are of the opinion that further detention of the petitioner is not necessary more so when the minor victim girl has already deposed before

the learned Court below and there is also no contemporaneous material on record to the effect that the petitioner wields influence over the witnesses. In view thereof, the petitioner's prayer for bail is allowed.

Accordingly, we allow this application and direct that the petitioner, namely, **Paban Adhikary @ Babanta Adhikary**, 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 (Special Court under POCSO Act) at Jalpaiguri.

The petitioner shall meet with the Officer-in-Charge of New Jalpaiguri Police Station once a week until further orders and 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) 512 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.)