

28.08.2023

Court No.01

rpan/**48**

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

CRM (DB) 518 of 2023

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

And

In Re : **Subhan Ali**

- Petitioner

Mr. Pritam Roy,
Mr. Sujoy Roy,
Mr. Suman Prasad
... for the Petitioner.
Mr. Kallol Acharjee,
Ms. Namrata Das
... for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Siliguri Police Station Case No. 268 of 2022 dated 11.03.2022 under Sections 363/365 of the Indian Penal Code and Sections 4/6 of the Protection of Children from Sexual Offences Act, 2012 [POCSO Case No. 19 (3) of 2022].

Mr. Roy, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated. The complaint was lodged by the mother of the victim girl. The contents of the complaint do not tally with the statement of the victim, as recorded under Section 164 of the Code. The petitioner is suffering detention since 11th March, 2022. Upon completion of investigation, charge-sheet has already been filed and the minor victim girl has already deposed before the learned Court below. In the said conspectus, further detention of the petitioner may not be necessary and he may be enlarged on bail on any stringent condition.

Mrs. Das, learned advocate appearing for the State, however, opposes the petitioner's prayer and draws our attention to the statement of the victim girl, as recorded under Section 164 of the Code as well as the medical report. She further submits that there are incriminating materials on record against the petitioner and in view of the gravity of the offence, his prayer may be refused.

Upon hearing the learned advocates appearing for the respective parties and taking into consideration the medical report as well as the contents of the FIR, the statement as recorded by the minor victim girl and the period of detention, we are of the opinion that further detention of the petitioner is not necessary, more so when the victim girl has already deposed before the learned court below.

Accordingly, we allow this application and direct that the petitioner, namely, **Subhan Ali** 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 Judge, Special Court under POCSO Act, Siliguri, Darjeeling and on further condition that the petitioner shall not enter the jurisdiction of Siliguri Police Station, save and except for attending the trial court on all the dates as fixed for hearing. He shall also meet with the Officer-in-Charge, New Jalpaiguri Police Station once a week until further orders.

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 CRM (DB) 518 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.)