

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

4.09.2023
Item no.16
Court No.01
P.P./S.D.

CRM (DB) 521 of 2023

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

And

In Re: Rupesh Tamang

.... petitioner

Mr. Arnab Sengupta
Mr. Rajesh Kumar Sharma
Mr. Janardan Periwai

....for the petitioner

Mr. Kallol Acharjee,
Mr. Kallol Nag

..... for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred in connection with Pradhan Nagar Police Station Case No.516 of 2023 dated 16.07.2023 under Sections 363 and 365 of the Indian Penal Code read with Section 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

Mr. Sengupta, learned advocate appearing for the petitioner submits that there was a relationship between the petitioner and the victim girl who is aged about 17 years. The victim girl went with the petitioner out of her own volition and there was no force imposed upon her.

Mr. Acharjee, learned counsel appearing on behalf of the State submits that there are incriminatory documents against the petitioner and as such the prayer for bail should be rejected. He submits that the Victim Girl (VG) is a minor and, therefore, the provisions of the Protection of Children from Sexual Offences (POCSO) Act, 2012 are attracted.

Considering the rival submissions of the parties and the materials placed on record, especially the contents of the 164 statement of the victim girl and also the allegations made in the First Information Report (FIR) by the victim's father, this Court, *prima facie*, is of the opinion that a consensual relationship between the petitioner and the VG cannot be ruled out. The petitioner is in custody for more than 50 days and as such any further incarceration may not be necessary.

This Court directs that the petitioner, namely, **Rupesh Tamang**, 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 Special Judge, under POCSO Act, Siliguri with a further condition that the petitioner shall meet the Inspector-in-Charge, Pradhan Nagar Police Station once a week till the investigation is completed.

The petitioner shall not induce the witnesses or influence them in any manner or tamper with the evidence.

It is made clear that in the event the conditions as stated above are not complied, without justifiable cause, the learned

Court below would be at liberty to cancel the petitioner's bail without any further reference to this Court.

With the above observations and directions, the application for bail, being **C.R.M.(DB) 521 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.)