

05.09.2023
Court No.01
rpan/42

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

CRM (DB) 525 of 2023

In Re : **Sankar Roy**
- Petitioner

Mr. Hillol Saha Podder
... for the Petitioner.
Mr. Nilay Chakraborty,
Mr. Subhasish Misra
... for the State.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with New Jalpaiguri Police Station Case No. 689 of 2023 dated 13.07.2023 under Sections 363/365/328/34 of the Indian Penal Code read with Section 4 of the Protection of Children from Sexual Offences Act, 2012.

Mr. Saha Podder, learned counsel appearing for the petitioner submits that the petitioner has been falsely implicated. The petitioner has no nexus with the alleged offence committed under Section 6 of the Protection of Children from Sexual Offences Act, 2012 (POCSO). The petitioner is in custody since July 14, 2023. Therefore, no useful purpose will be served by further incarceration of the petitioner.

Mr. Misra, learned counsel appearing on behalf of the State submits that there are several incriminatory documents against the petitioner. He draws our attention to the statement made under Section 164 of the Code of Criminal Procedure by the victim girl, in order to contend that the petitioner was at the place of occurrence and his complicity in the offence cannot be ruled out.

Considering the rival submissions of the parties and materials placed on record, this Court is of the view that further incarceration of the petitioner may not be necessary in view of the fact that no specific overt act has been attributed to the petitioner, pertaining to the ingredient of Section 6 of the Protection of Children from Sexual Offences Act. *Prima facie*, this court is also of the view that no direct allegation has been made by the victim girl against the petitioner. In view of the aforesaid and considering the fact that the petitioner has suffered detention since July 14, 2023, this Court directs the petitioner to be released on bail on the following conditions:

1. The petitioner, namely, **Sankar 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 Judge, Special Court (under POCSO Act), 2nd Court, Jalpaiguri.
2. The petitioner shall meet with the Investigating Officer of the case once a week till completion of the investigation.
3. The petitioner shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

Accordingly, **CRM (DB) 525 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.)