

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

05.09.2023
Court No.01
Item No.36
Avijit Mitra

CRM (DB) 537 of 2023

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

And

In Re: Pradip Barman

...Petitioner

Mr. Hillol Saha Poddar

....For the petitioner

Mr. Aditi Shankar Chakraborty, Ld. A.P.P.,

Mr. Kallol Nag

...For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred in connection with Ghoksadanga Police Station Case No.72 of 2023 dated 23.02.2023 under Sections 363/365/109 of the Indian Penal Code and subsequently added Section 6 of Protection of Children of Sexual Offences Act, 2012.

Mr. Saha Poddar, learned advocate appearing for the petitioner submits that there was a consensual relationship between the petitioner, who is aged about 23 years and the victim girl, who is aged about 15 years. In the complaint lodged by the father of the victim girl there is no ingredient of Section 6 of the POCSO Act. The petitioner has been falsely implicated. He has already suffered long incarceration for about 215 days. Upon completion of investigation chargesheet has already been

submitted and as such further detention of the petitioner may not be necessary.

Mr. Nag, learned advocate appearing for the State opposes the petitioner's prayer and submits that there are strong incriminating materials on record against the petitioner and as such his prayer needs to be refused at this stage.

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

Prima facie, the contents of the complaint and the statements made by the victim girl, as recorded under Section 164 of the Code, reveal inconsistencies. Bearing in mind the nature of accusations in the light of the arguments as advanced and as the petitioner has already suffered incarceration for 215 days, we are of the opinion that his further detention may not be necessary moreso when upon completion of investigation chargesheet has been filed.

Accordingly, we allow this application and direct that the petitioner, namely, **Pradip Barman**, 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 Special Judge, Special Court (Under Protection of Children of Sexual Offences Act, 2012) cum Additional Sessions Judge, Mathabhanga with a further direction that the petitioner shall meet with the Officer-in-Charge, Ghoksadanga Police

Station once a week until further orders and shall not enter into the vicinity of the victim girl's residence.

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) 537 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.)