

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

05.09.2023
Court No.01
Item No.37
Avijit Mitra

CRM (DB) 538 of 2023

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

And

In Re: Kanaj Barman @ Konaj Barman

...Petitioner

Mr. Hillol Saha Poddar

....For the petitioner

Mr. Biswarup Ray

...For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred in connection with Mathabhanga Police Station Case No.590 of 2022 dated 30.09.2022 under Sections 363/365 of the Indian Penal Code and subsequently added Section 4 of Protection of Children of Sexual Offences Act, 2012.

Mr. Saha Poddar, learned counsel appearing on behalf of the petitioner submits that there was a relationship between the petitioner and the victim girl. The complaints made in the FIR are not corroborated by any documentary evidence. The petitioner has been falsely implicated in respect of the alleged offences.

Mr. Ray, learned counsel appearing on behalf of the State submits that there are serious incriminatory materials against the petitioner and as such the prayer for bail should be refused.

Having considered the rival submissions of the parties and the materials placed on record, this Court finds that the petitioner has spent a considerable period of time in incarceration. The statements made under Section 164 of the Code of Criminal Procedure do not corroborate the complaints made in the FIR, upon a *prima facie* reading. Furthermore, the victim girl has refused to be medically examined. Moreover, the chargesheet has already been filed in the instant case.

This Court, therefore, is inclined to grant bail to the petitioner, namely, **Kanaj Barman @ Konaj Barman** and he shall be released 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, Mathabhanga Police Station once a week until further orders.

The petitioner shall attend the learned Court below on all the dates as fixed for hearing.

It is further directed that the petitioner shall also not interfere with 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) 538 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.)