

04.092023
Court No.01
rpan/05

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

CRM (DB) 540 of 2023

In Re : **Jahirul Hoque**
- Petitioner

Mr. Hillol Saha Podder,
Ms. Mousumi Das
... for the Petitioner.
Mr. Abhijit Sarkar,
Ms. Sukanya Adhikary
... for the State,

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Mathabhanga Police Station Case No. 445 of 2021 dated 06.08.2021 under Sections 363/365/109 of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act, 2012 [(POCSO) Case No. 34 of 2021].

Mr. Saha Podder, learned advocate appearing for the petitioner submits that the petitioner was aged about 24 years and the victim girl was aged about 17 years on the date of the alleged incident. There was a consensual relationship between them. The allegations leveled are absolutely unfounded. The petitioner has already suffered long detention over a period of two years and one month and there is no possibility towards conclusion of the trial in the near future. In the said conspectus, he may be enlarged on bail on any stringent condition.

Ms. Adhikary, learned advocate appearing for the State opposes the petitioner's prayer. She has drawn our attention to the medical report as well as the statement of the victim girl, as recorded under Section 164 of the Code.

Answering our query, she submits that upon completion of investigation, charge-sheet has been submitted.

Heard the learned advocates and considered the materials in the case diary.

Prima facie, the medical report does not corroborate the statement of the victim girl, as recorded under Section 164 of the Code. Taking note of the fact that the petitioner has already suffered long detention for above two years and as upon completion of investigation, charge-sheet has been submitted, further detention of the petitioner may not be necessary.

Accordingly, we allow this application and direct that the petitioner, namely, **Jahirul Hoque** 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, (POCSO Act)-cum-Additional Sessions Judge, Mathabhanga, Cooch Behar, with further conditions that he shall meet with the Officer-in-Charge of the Mathabhanga police station once a week until further orders and shall attend the trial court on all the dates as fixed for hearing.

The petitioner shall also not enter into the vicinity of the victim girl's residence.

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) 540 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.)