

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

05.09.2023  
Court No.01  
Item No.34  
Avijit Mitra

**CRM (DB) 544 of 2023**

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

**In Re: Paban Roy**

...Petitioner

Mr. Joydeep Kanta Bhowmik,  
Ms. Rikta Sarkar,  
Mr. Sayanta Bhowmik,  
Mr. Tushar Debnath

....For the petitioner

Mr. Ujjwal Luksom,  
Ms. Namrata Das

...For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred in connection with Rajganj Police Station Case No.295 of 2022 dated 08.05.2022 under Sections 363/365 of the Indian Penal Code and under Section 6 of Protection of Children of Sexual Offences Act, 2012.

Mr. Bhowmik, learned counsel appearing on behalf of the petitioner submits that the petitioner has been falsely implicated in the alleged offences contained in the FIR. The petitioner was arrested on May 09, 2022. The medical report of the Victim Girl (VG) does not corroborate the statement of the VG made under Section 164 of the Code of Criminal Procedure and also the allegations contained in the FIR.

Ms. Das, learned counsel appearing on behalf of the State submits that there are several incriminatory documents against the petitioner. Furthermore, the petitioner is aged about 38 years whereas the victim girl is a minor who is aged about only 14 years. Considering the age difference itself of the petitioner and the victim girl, the prayer for bail should be rejected.

Considering the rival submissions of the parties and the materials placed on record, this Court is *prima facie* of the view that there are discrepancies in the allegations made in the FIR and the statement made by the VG under Section 164 of the Code of Criminal Procedure. This Court also *prima facie* finds that the medical report does not corroborate the statement under Section 164 of the VG. Furthermore, from the documents perused by this Court it also appears that the VG did not appear before the learned Trial Court to testify, on several occasions.

Therefore, it is of the view that no further incarceration of the petitioner may be necessary as chargesheet has already been filed in the instant proceedings.

This Court, therefore, is inclined to grant bail to the petitioner, namely, **Paban Roy** 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 Additional Sessions Judge, 2<sup>nd</sup> Court, Jalpaiguri with a further direction that the petitioner shall not enter the

jurisdiction of Rajganj Police Station during the course of the trial.

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) 544 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.)**