

06.09.2023

Court No.08

P.P./S.D.

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

CRM (DB) 546 of 2023

In Re : **Manab Roy**

- Petitioner

Mr. Jaydeep Kanto Bhowmik
Mr. Sayantan Bhowmik
Ms. Rikta Sarkar
Mr. Tushar Debnath
... for the Petitioner.

Mr. Ujjwal Luksom,
Mr. Sagnik Sankar Sikdar
Ms. Namrata Das
... for the State.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Maynaguri Police Station Case No. 202 of 2021 dated 26.04.2021 under Sections 376D IPC read with Section 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

Mr. Bhowmik, learned counsel appearing for the petitioner submits that the petitioner has been falsely implicated in the alleged offence. The petitioner has been arrested on April 26, 2021. The chargesheet has been submitted on June 23, 2021. A co-accused similarly placed with the petitioner has already been enlarged on bail. Therefore, further incarceration of the petitioner may not be necessary. He also places reliance on the cross-examination of the Medical Officer who has deposed that there is no injury in the private part of the petitioner as well as on any other part of the Victim Girl (VG).

Mr. Sikdar, learned counsel appearing on behalf of the State submits that there are several incriminatory documents against the petitioner and considering the gravity of the offence, the prayer for bail should be refused.

Considering the rival submissions of the parties and the materials placed on record, *prima facie*, this Court is of the view that that the statements made by the VG under Section 164 of the Cr.P.C. reveal inconsistencies with the allegations made in the First Information Report (FIR). *Prima facie*, the medical report also does not corroborate with the allegations made in the FIR. Upon completion of the investigation, chargesheet has been filed on June 23, 2021. The evidence of the VG is also complete.

Considering the long period of incarceration of the petitioner and the fact that the evidence of the VG is complete, this Court directs the petitioner to be released on bail with the following conditions:

1. The petitioner, namely, **Manab 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 Additional Sessions Judge, 2nd Court, Jalpaiguri.
2. The petitioner shall meet with the Officer-in-Charge, Malbazar Police Station once a week until further orders.
3. The petitioner shall not enter the jurisdiction of Maynaguri Police Station where the VG is residing and shall also attend all the scheduled dates of hearing before the Trial Court.

4. 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 conditions as stated above are not complied, without justifiable cause, the learned Court below would be at liberty to cancel the petitioner's bail without any further reference to this Court.

Accordingly, **CRM (DB) 546 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.)