

D/L. 24
September 12, 2023.
MNS

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (DB) 551 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 05.09.2023 in connection with Matigara Police Station Case No. 839 of 2021 dated 08.08.2021 under Section 10 of the Protection of Children from Sexual Offences Act, 2012 and adding Section 6 of the Protection of Children from Sexual Offences Act, 2012.

And

In the matter of: Arjun Paswan

.... Petitioner

Mr. Hillol Saha Podder,
Ms. Mousumi Das

... for the petitioner

Mr. Aditi Shankar Chakraborty,
Mr. Tapan Bhattacharjee

... for the State

1. Learned counsel for the petitioner points out that there were discrepancies in the allegations made against the petitioner, whereas initially there was no allegation under Section 6 of the Protection of Children from Sexual Offences Act, 2012, but the same was subsequently clubbed.
2. That apart, other co-accused persons have been exonerated.
3. Learned counsel for the petitioner also argues that the petitioner is already in custody for two years.

4. Learned counsel for the State squarely opposes the prayer for bail and places reliance on the medical report, which indicates that there was sexual penetration.
5. Upon perusal of the materials handed over by learned counsel, it transpires that there is some discrepancy in the build-up of events leading to the allegations. First, the offence under Section 6 of the Protection of Children from Sexual Offences Act, 2012 ought to have been disclosed in the complaint itself; however, for some unknown reason, the same was not initially there in the complaint, but was subsequently added.
6. That apart, although we find in the FSL report that no semen (no spermatozoon) could be detected, the allegation of penetration finds place in the medical report.
7. The involvement of the petitioner in the alleged offence has some doubt, for which we are inclined to grant of benefit of bail to the petitioner. Moreover, the petitioner is already in custody for two years and the trial has commenced.
8. Accordingly, CRM (DB) 551 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner furnishes bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court (POCSO Act), Siliguri.
9. The petitioner shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend the trial on each and every date.

10. The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)