

21.09.2023

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***Calcutta High Court
In the Circuit Bench at Jalpaiguri***

CRM (DB) 569 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed on 12.09.2023 in connection with Pundibari Police Station Case No. 267 of 2023 dated 19.04.2023 under Section 4 of the POCSO Act.

In the matter of : Hasirul Hossain @ Hasinul Islam @ Hasirul Islam
... petitioner

Mr. Arjun Chowdhury,
Ms. Pratusha Dutta Chowdhury,
Ms. Riya Agarwal

...for the petitioner

Mr. Aditi Shankar Chakraborty,
Mr. Sagnik Sankar Sikder

.....for the State.

1. Learned counsel appearing for the petitioner contends that the petitioner is already in custody for more than five months. Moreover, the victim's evidence has already been taken and the trial is proceeding. It is submitted that there was an affair between the petitioner and the victim girl, who were respectively 26 years and 16 years of age at the relevant point of time.
2. Learned counsel for the State opposes the prayer for bail and points out that the allegations are under the POCSO Act. That apart, it is submitted that the statement under Section 164 of the Criminal Procedure Code is incriminating against the petitioner. It is also submitted

that the medical examination also clinches the issue against the petitioner.

3. Even without going into the strength of the allegations against the petitioner, which will be decided in the trial, we are of the opinion that since the victim's evidence is over and the petitioner's custodial interrogation is no longer necessary, the petitioner ought to be granted the benefit of bail under certain stringent conditions.
4. Accordingly, CRM (DB) 569 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish 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 Court (under POCO Act) at Coochbehar. The petitioner shall not leave the territorial jurisdiction of the Trial Court during the entire period of trial and shall attend on each and every date of trial.
5. Moreover, the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade such person from disclosing such facts to the court or to any police officer or tamper with evidence in any manner whatsoever.

6. That apart, the petitioner shall not approach the vicinity of the residence of the victim girl and/or contact in any manner or approach the victim girl throughout the period of trial.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)