

25.09.2023
Court No.1
SL No.11
pk/AP

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

CRM(DB) 585 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Alipurduar Women Police Station Case No.83 of 2022** dated **05.11.2022** under Section **6** of the Protection of Children from Sexual Offence Act and read with Sections 341/376DA/506/120B/34 of the Indian Penal Code.

And

In the matter of: **Mrinal Adhikary**

....Petitioner.

Mr. Hillol Saha Podder
Ms. Mousumi Das

...For the Petitioner.

Mr. Aditi Shankar Chakraborty
Mr. Sagnik Sankar Sikder

...For the State.

1. Application for bail is made by one of the accused in connection with Alipurduar Women Police Station Case No.83 of 2022 dated 05.11.2022 under Section 6 of the Protection of Children from Sexual Offence Act and read with Sections 341/376DA/506/120B/34 of the Indian Penal Code.

2. The principal argument of the counsel for the applicant is that the statement under section 164 of the victim is not in harmony or consonance with the medical report.

3. This Court has very carefully considered the records. The victim has indicated that as many as seven persons were involved

and three of them committed the main sexual offence. One of the seven persons, who did not actually commit the offence alleged, was granted anticipatory bail.

4. This Court has also very carefully considered the victim's statement. The petitioner is alleged to have committed the actual offence on the victim girl along with two others.

5. In the backdrop of the above, the medical report in the case diary cannot be held as conclusive. The medical officer himself has sought further test reports.

6. This Court is of the view that the medical report relied upon by the applicant cannot be a ground for consideration of a prayer for bail.

7. Given the nature of the offences and the allegations against three persons including the petitioner, this Court is not inclined to grant bail to the petitioner.

8. In these circumstances, the application for bail is hereby rejected.

(Rajasekhar Mantha, J.)

(Supratim Bhattacharya, J.)