

25.09.2023
Court No.1
SL No.13
pk/AP

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

CRM(DB) 587 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Birpara** P.S. Case No.**85 of 2023** dated **18.06.2023** under Section **6** of the POCSO Act.
And

In the matter of: **Soumyadeep Naha**

....Petitioner.

Mr. Soumalaya Ganguli
Mr. Karan Dudhwala
Mr. Sayantan Bhowmik

...For the Petitioner.

Mr. Aditi Shankar Chakraborty
Mr. Sourav Ganguly
Mr. Sagnik Sankar Sikder

...For the State.

1. The petitioner seeks bail in respect of offences registered under Birpara Police Station Case No.85 of 2023 dated 18.06.2023 under Section 6 of the POCSO Act. The victim is a thirteen year old boy.

2. Counsel for the petitioner would urge three fold grounds before this Court. Firstly, there was political rivalry where the victim's mother was denied a ticket in the recent Panchayat Elections at the instance of the accused and the complaint was a result of such political vendetta.

3. Secondly, is argued that the medical report does not indicate any penetrative sexual assault.

4. It is now well-settled that offences under the POCSO Act do not necessarily have to involve penetration.

5. This Court has very carefully considered the statements of the victim boy and his mother.

6. Investigation has been completed. Charge sheet has been filed. Hence, according to the petitioner, custody of the petitioner is not required. His client is willing to comply with any condition that may be laid down by this Court.

7. Given the nature of the allegations, evidence on record and the statements of the witnesses, this Court is not inclined to grant bail to the petitioner at this stage.

8. In the above circumstances, this Court directs the Judge, Special Court at Alipurduar under the POCSO Act to frame charges immediately and complete the trial mandatorily and positively within a period of three weeks from date. The prosecution shall put in all efforts to bring on their witnesses.

9. It is, however, made clear that in the event the trial is not completed within three months from date, the petitioner shall be entitled to apply for bail when the same may be appropriately dealt with.

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

11. Registry shall communicate this order to the Judge, Special Court at Alipurduar under the POCSO Act.

(Rajasekhar Mantha, J.)

(Supratim Bhattacharya, J.)