

October 9, 2023.

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Sl.6**

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM(DB) 600 of 2023

In re : An application for bail under Section 439 of the Code of Criminal Procedure, 1973 filed on 18.9.2023 in connection with Haldibari P.S. Case No.51 of 2023 dated 18.3.2023 under Section 498A of the IPC and Sections 6 and 17 of the POCSO Act, 2012 and Sections 9 and 10 of the Prohibition of Child Marriage Act, 2006.

In the matter of: Tapan Adhikary

.... Petitioner.

Mr. Sandip Mandal,
Mr. Abhilash Mittal

... For the Petitioner.

Mr. Tapan Bhattacharjee, Ld. APP.,
Ms. Sukanya Adhikary

...For the State.

Learned Advocate appearing for the petitioner submits that it is a mere case under Section 498A of the IPC. He submits that it is a case under Section 498A of the IPC. Learned Advocate appearing for the petitioner contends that the dispute surfaced in the matrimonial life of the petitioner and his wife and a matrimonial dispute has been given a shape of a case under POCSO Act. He submits that the petitioner has been languishing in jail since long and considering these facts, bail may be granted to the petitioner on any terms and conditions.

Learned APP vehemently opposes such prayer. He submits that if bail granted, petitioner can flee from trial.

Heard learned Advocates appearing for the parties. Perused the case diary and other materials on record. From the order dated 8th September,

2023, passed by the earlier Division Bench of this court in CRM(A) 714 of 2023 it is explicit that the earlier Bench observed that ingredient of Sections 6 and 17 of the POCSO Act are not attracted in this case. From the records it transpires that other co-accused persons have been given benefit under Section 438 of the Code.

Considering the facts and circumstances of the case and upon hearing the submission of the respective parties and considering the long detention of the present petitioner, we are of the view that further detention of the petitioner will not serve any purpose and that would be a pre-trial punishment. In view thereof, the petitioner may find bail upon furnishing a bond of Rs.10,000/-(Rupees Ten Thousand only) with two sureties of like amount, one of whom must be local, to the satisfaction of the Judge, Special Court under the POCSO Act, Mekhliganj.

Learned Trial Court is directed to conclude the trial preferably within three months.

CRM 600 of 2023 is thus disposed of.

(Partha Sarathi Chatterjee, J.)

(Md. Nizamuddin, J.)