

AD-13
Ct No.01
Jalpaiguri
30.01.2023
TN

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

CRM (DB) 454 of 2022

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with Dhupguri Police Station Case No. 377 of 2022 dated 21.06.2022 under Sections 376(3)/506 of the Indian Penal Code and under Section 4 of the Protection of Children from Sexual Offence Act.

And

In the matter of: Sohel Alam @ Faisar Haque

.... Petitioner

Mr. Debajit Kundu

... for the Petitioner

Mr. Kallol Acharjee,
Ms. Namrata Das

... for the State

The petitioner is in custody for 225 days. Allegation, *inter alia*, against him is under Section 4 of the Protection of Children from Sexual Offences Act as well as Sections 376(3)/506 of the Indian Penal Code. Materials available in the case diary are perused. On the face of it, the ingredients for offence under Section 4 is found not to be present and the alleged offence would constitute offence under separate sections of the particular statute.

Be that as it may, we have considered the period of detention of the accused person-petitioner, as well as other materials in the case diary. We have also considered the victim's statement recorded under Section 164 of the Code of Criminal Procedure, describing the ingredients of offence though may not be under the section which is attracted in this case.

Considering the entire facts of the case, we are of the opinion that the petitioner's bail prayer may be allowed but with certain conditions.

Hence, the petitioner, namely, Sohel Alam @ Faisar Haque be released on bail upon furnishing 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 Judge, Special Court (under POCSO Act), Second Court at Jalpaiguri, subject to the condition that during the period of investigation, the petitioner shall not enter the jurisdiction of the police station where the victim girl permanently resides, excepting the dates to appear before the court or to respond any call from the Investigating Officer, if necessary and subject to the further condition that the petitioners shall not make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such persons from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.

Accordingly, CRM (DB) 454 of 2022 is disposed of.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)