

AD-23
Ct No.01
Jalpaiguri
30.01.2023
TN

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

CRM (DB) 464 of 2022

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with New Jalpaiguri Police Station Case No. 1019 of 2022 dated 11.09.2022 under Sections 365/417/120B IPC, read with Section 4 of the POCSO Act, corresponding to Sessions (POCSO) Case No. 126 of 2022.

And

In the matter of: Jahirul Haque

.... Petitioner

Mr. Joydeep Kanta Bhowmik,
Mr. Sayantan Bhowmik

... for the petitioner

Mr. Ujjwal Luksom,
Mr. Sagnik Sankar Sikdar

... for the State

Upon hearing learned counsel for the parties, it transpires that the petitioner admittedly had a romantic affair with the victim girl, as evident even from the statement of the victim girl under Section 164 of the Code of Criminal Procedure.

That apart, the petitioner is around 19 years of age whereas the victim girl is of 17 years, which cannot be sufficient to rule out the scope of the relationship being consensual.

As such, we do not find that the presumption under the POCSO Act has been raised in the present case sufficiently to refuse bail to the petitioner.

Accordingly, CRM (DB) 464 of 2022 is allowed, thereby granting bail to the petitioner on condition that the petitioner furnishes 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.

The petitioner 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.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)