

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

05.03.2024
Court No.1
(D/L 11)
(AK)

CRM (DB) 39 OF 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Ghoksadanga Police Station Case No.243 of 2023 dated 20.05.2023 under Section 6 of the POCSO Act, 2012.

And

In the matter of: **Ayub Ali Khan**

... Petitioner.

Ms. Suman Sehanabis (Mandal)
Mr. Salok Sah

... for the petitioner.

Mr. Nilay Chakraborty
Mr. Kallol Nag

... for the State.

1. Learned counsel appearing for the petitioner hinges the entire case on the DNA test report. Counsel submits that if the test report is in the negative then the petitioner should be absolved of all criminal charges, more specifically the offence of commission of rape on the victim lady.
2. The contents of the Case Diary however do not specify the offence as one single act of commission of rape. The statements made under Section 164 of the Code of Criminal Procedure, 1973, show that the charge against the petitioner has enough substance.
3. We are hence not inclined to grant bail but request the learned Special Judge (under POCSO Act)-cum-Additional

Sessions Judge at Mathabhanga to expedite the trial since we are informed that charges are yet to be framed.

4. The petitioner will have the liberty of approaching the court in case there is further delay in the trial.
5. CRM (DB) 39 of 2024 is accordingly rejected in terms of the above.

(PRASENJIT BISWAS, J.)

(MOUSHUMI BHATTACHARYA, J.)