

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

**12.04.2024
Court No.01
Item No.03
Avijit Mitra**

CRM (DB) 122 of 2024

In Re:- An application for bail under Section 439 of the
Code of Criminal Procedure, 1973;

And

In Re : Nitin Toppo

...Petitioner

Mr. Mayank Roy

.... for the petitioner

Mr. Ujjwal Luksom,

Ms. Namrata Das

...for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred in connection with Bagdogra Police Station Case No.425 of 2023 dated 29.08.2023 under Section 376 D of the Indian Penal Code.

Mr. Roy, the learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated. He has already suffered incarceration for about 266 days. The petitioner happens to be a relative of the victim girl and that the ingredients of Section 376D of the Indian Penal Code are not attracted against him. Upon completion of investigation chargesheet has also been submitted and as such further detention of the petitioner may not be necessary and he may be enlarged on bail on any stringent condition.

Mr. Luksom, learned advocate appearing for the State opposes the petitioner's prayer and submits that there are strong incriminating materials on record in the case diary against the petitioner.

We have heard the learned advocates appearing for the respective parties and perused the materials on record in the case diary including the statement of the victim girl as recorded under Section 164 of the Code as well as the statement of other witnesses including the mother of the victim, as recorded under Section 161 of the Code. A perusal of the said records, *prima facie*, reveals the direct involvement of the petitioner in the alleged offence. Considering the gravity of the offence, its ramifications, the manner in which the offence has taken place and the extent of complicity of the petitioner in the alleged offence, we are not inclined to grant bail to the petitioner, at this stage.

Accordingly, the application for bail, being CRM (DB) 122 of 2024, is dismissed.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Biswaroop Chowdhury, J.) (Tapabrata Chakraborty, J.)