

13.05.2024.
61.
Ct.No.28
as
(Rejected)

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri**

C.R.M. (DB) 171 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection Kharibari P.S. Case No.303 of 2023 dated 28.10.2023 under Section 376D of the Indian Penal Code and Sections 6/17 of the POCSO Act.

In the matter of : **Sitam Xalxo.**

... Petitioner.

Mr. Subham Ghosh,
Mr. Mayank Roy.

...for the Petitioner.

Mr. Ujjwal Luksom,
Ms. Namrata Das.

...for the State.

1. Petitioner contends he is a teenager and has been falsely implicated. Co-accused has been enlarged on bail. Accordingly, he prays for bail.

2. Learned Advocate for the State opposes the bail prayer. She submits the minor girl was raped by petitioner and co-accused.

3. We have considered the materials on record. We have also gone through the statement of the minor before Magistrate. She has alleged petitioner and one Rubel raped her. Rubel being a minor has been enlarged on bail. Petitioner cannot claim parity with the said child in conflict with law. Victim is yet to be examined.

4. Under such circumstances, we are not inclined to grant bail to the petitioner.

5. Accordingly, the prayer for bail of the petitioner is rejected.

6. We request the trial court to consider the issue of framing of charge and in the event charge is framed to examine the victim girl at the earliest.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)