

13.08.2024
Court No.1
SL No.7
pk/AP

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

CRM(DB) 249 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Tufanganj** P.S. Case No. **272 of 2024** dated **11.04.2024** under Sections 363/365/109/323/506/34 of the IPC and Section 6 of the POCSO Act.

And

In the matter of: **Suman Das**

....Petitioner.

Mr. Arijit Ghosh
Ms. Swarnali Ghosh
Ms. Angana Rakshit

...For the Petitioner.

Mr. Nilay Chakraborty, Ld. APP,
Mr. Ujjwal Luksom
Mr. Biswarup Roy

...For the State.

1. Co-ordinate Benches ordered seizure of mobile phone to verify authenticity of the photographs in question.
2. This Court has seen the photographs. They at best indicate that the victim girl may have been very friendly with the accused petitioner or even in a romantic relationship. The same does not ipso facto mean or authorize or entitle the petitioner to expect that she would have physical relations with him. Need for a forensic report of the mobile phone is not felt in the instant case by this Bench.

3. Learned counsel for the petitioner further submits that the complaint is inconsistent with the statement of 164. A complaint has been admittedly filed by the father of the victim girl.

4. This Court has carefully considered both the aforesaid documents. There is no serious contradictions found by this Court in the aforesaid two documents.

5. Learned counsel for the petitioner places reliance upon medical report of the victim girl obtained by the police. While it is true that there were no injury marks were found, the statement under Section 164 and the complaint itself indicate that the consent of the petitioner may have been obtained by force, threat and coercion. In such a circumstance absence of injury marks would not rule out offence under Section 376 or the Section 6 of the POCSO Act.

6. In view of the above, this Court is not inclined to grant bail to the petitioner at this stage.

7. The application for bail is, thus, rejected.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)