

AD-9
Ct No.01
Jalpaiguri
20.08.2024
sp

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

CRM (DB) 330 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Bagdogra Police Station Case No. 15 of 2024 dated 07.01.2024 under Section 6 of the Protection of Children from Sexual Offences Act, 2012.

And

In the matter of: Debesh Sarkar

.. petitioner

Mr. Kumar Shantanu

..for the petitioner

Mr. Kallol Acharjee,
Ms. Namrata Das

..for the State

1. The DNA report has been produced which confirms the fact that the petitioner is the biological father of the baby that the victim gave birth.
2. Learned counsel for the petitioner would argue that the victim was silent for about 12 months before lodging FIR. Therefore, it must therefore be presumed that the victim voluntarily had physical relationship with the accused.
3. Given the fact that the victim is below 18 years old, her consent is totally irrelevant. The petitioner is about 60 years old. There is therefore a presumption of inducement in the facts and circumstances of the case.

4. Without delving much into the evidence of record, this Court is of the view that the application for bail of the petitioner cannot be entertained. Hence, CRM (DB) 330 of 2024 is, thus, dismissed.
5. The Court below is requested to expedite the disposal of the trial.
6. The personal presence of the Investigating Officer is dispensed with.
7. The Registry shall communicate a copy of this order to the Court below.
8. All the parties shall act on the server copy of this order duly downloaded from the official website of this Court

(Ajoy Kumar Mukherjee, J.)

(Rajasekhar Mantha, J.)