

Circuit Bench of Calcutta High Court At Jalpaiguri

CRM (DB) 717 of 2023

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Tufanganj Police Station** Case No. **334 of 2023** dated **15.05.2023** under Sections **6** of the POCSO Act.
- A n d -

In the matter of : Ichhuf Ali @ Iccuf Ali

.... Petitioner.

Mr. Hillol Saha Poddar,

... For the Petitioner.

Mr. Nilay Chakraborty,
Mr. Tapan Bhattacharjee,

... For the State.

Heard Mr. Poddar, learned Counsel for the petitioner and
Mr. Chakraborty, learned Senior Counsel for the State.

This bail petition has been filed on behalf of the petitioner who has been lodged in jail since 15.05.2023, in Police Station Case No. 334 of 2023 dated 15.05.2023 under Section 6 of the Protection of Children from Sexual Offence Act, 2012, Lower Court Case No. 16 of 2023, Police Station Tufanganj, District Coochbehar.

Learned Counsel for the petitioner submits that the First Information Report was lodged belatedly by five months and no DNA of the victim girl has been conducted to find out the truth that

who raped her. The petitioner is totally innocent and has nothing to do with the alleged incident.

Learned Senior Counsel for the State submits that the petitioner is a neighbor of the victim girl and has raped her on 02.01.2023 when the victim girl was alone in the house, due to which the victim girl became pregnant and then she told the incident to her mother who immediately lodged the FIR. He has also placed before us the case diary containing the statement of the victim girl recorded Under Section 161 and 164 Cr. P.C. He submits that looking into the facts and circumstances of the case and evidence collected by the Investigating Officer including the statement of the victim girl recorded under Section 164 Cr. P.C., *prima facie*, commission of offence by the petitioner has been established and, therefore, bail petition of the petitioner deserves to be rejected particularly when witnesses are yet to be examined, otherwise, the petitioner may influence the witnesses.

We have heard learned Counsel for the parties and carefully considered their submissions and perused the case diary.

Considering the facts and circumstances of the case submissions made by learned Counsel for the parties, statement of the victim girl recorded under Section 164 Cr. P.C, the gravity of offence, its ramification and extent of complicity of the petitioner in the alleged offence, we find that the present case is not a fit case for grant of bail to the petitioner. Therefore, without commenting on merits of the case, the bail prayer of the petitioner is rejected.

CRM (DB) 717 of 2023 is, accordingly, dismissed.

Urgent certified copy of this order, if applied for, be supplied to the learned Counsel for the respective parties.

(Surya Prakash Kesarwani, J.)

(Rai Chattopadhyay, J.)