

**IN THE HIGH COURT AT CALCUTTA
IN THE CIRCUIT BENCH AT JALPAIGURI
CRIMINAL MISCELLANEOUS JURISDICTION
APPELLATE SIDE**

22.04.2025
(ct. no.03)
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BR

CRM (M) 20 of 2025

In Re : An application for bail under Section 483 of the
Bharatiya Nagarik Suraksha Sanhita, 2023.

And

In the matter of : Dinanath Pathak

.... Petitioner.

Mr. Saikat Chatterjee,
Ms. Purbasha Sarkar

... For the Petitioner

Mr. Tapan Bhattacharjee,
Mr. Chattu Roy

... for the State.

- 1.** Affidavit of service showing due service upon the de facto complainant/victim is filed and be kept with the record.
- 2.** The prayer for bail in the present case arises out of an order dated 21.03.2025 passed by the Additional District Judge, 2nd Court (POCSO Court), Jalpaiguri in connection with Sessions (POCSO) Case No. 172 of 2024, Kotwali P.S. Case No. 713 of 2024 dated 16.10.2024 under Section 137(2)/140(3)/49 of B.N.S. 2023 adding section 6 of POCSO Act thereby rejecting the prayer for bail.
- 3.** The prosecution case in short is that the victim in the present case (**17 years**) was allegedly taken by the accused petitioner herein with the help of his parents on 14.10.2024.
- 4.** From the materials in the case diary it appears that petitioner is about **24 years**.

5. The medical report in the case diary in respect of victim shows her to be 17 years as stated by the victim.
6. No ossification test has been conducted. The victim stated before the doctor that the petitioner accused is her boy friend for about two months and she eloped with him to Siliguri. She claimed that she married the petitioner but without any documentation and that she was forced to have physical relationship with the petitioner on 16.10.2024 in a rented place. The medical report has supported her claim of physical relationship but no external injury was found by the doctor. Prima facie it appears to be a consensual relationship.
7. It further appears from the statement of the victim recorded under Section 164 of the Criminal Procedure Code that the parties were involved in a love relationship.
8. The petitioner has relied upon a judgment of the Co-ordinate Bench passed in **CRM(DB) No. 447 of 2023 dated 17.8.2023 in the matter of Faterul Hoque @ Mozammel Haqued @ M/s. Fatejul Haque @ Fatejul.**
9. On hearing the parties and relying upon the judgement of the Supreme Court in ***Deshraj alias Musa vs. State of Rajasthan & Anr. reported in 2024 SC OnLine SC 2709*** wherein the court considered a case similar to the present case, wherein the accused aged about 18 ½ years and the victim aged 16 years were in a consensual relationship. The court granted bail to the accused.
10. In the present case charge sheet has been filed. Trial is yet to commence.
11. Considering the age of the parties herein the stage of investigation and trial and the statement of the victim girl made before the Doctor during her medical examination, and relying upon the judgement of the Supreme Court in ***Deshraj alias Musa (supra)***, this court directs that the petitioner be released on bail of Rs.20,000/- with two sureties of Rs.10,000/- each with condition that he shall

attend the court during trial diligently and shall not misuse the liberty granted to him, failing which the Trial Judge shall be at liberty to proceed in accordance with law.

- 12.** The petitioner shall not misuse his liberty or influence the witnesses in any way.
- 13.** All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Shampa Dutt (Paul), J.)