

29.04.2025

Sl. No. 16

Court No.3

BM

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

CRM(M) 42 of 2025

In re: An application for bail under Section 439 of the Code of Criminal Procedure/under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023

And

In the matter of : DIPANKAR @ DEEPAK SARKAR @ DIPAK SARKAR

... Petitioner

Mr. Anirban Banerjee

Mr. Dilip Ray

... for the petitioner

Mr. Aditi Shankar Chakraborty

Mr. Kallol Nag

... for the State

1. The petitioner's prayer for bail arises out of an order dated 28.03.2025 passed by the learned Judge, Special Court (under POCSO Act), Jalpaiguri in connection with Special POCSO Case No.159 of 2024 arising out of Maynaguri Police Station Case No.452 of 2024 dated 06.10.2024 under Sections 137(2)/140(3)/351(2) of the Bharatiya Nyaya Sanhita, 2023 read with Section 9/10 of the Child Marriage Act and Sections 6/7 of the Protection of Children from Sexual Offences Act, 2012, thereby rejecting the prayer for bail.

2. It is the case of the petitioner that he and the victim girl had a love affair and the victim willfully went with him but a complaint was lodged by the victim's mother and he has been arrested and is in custody since 10.10.2024 and that is for more than 180 days.

3. It appears that the victim girl is aged about 17 years and the accused is about 28 years. The victim has claimed that she was kidnapped by the accused and was forced to have physical relationship.
4. Charge sheet in the present case has been filed on 03.12.2024 and as such, further detention of the accused in the present case is not necessary.
5. The Supreme Court in **Deshraj alias Musa vs. State of Rajasthan & Anr. reported in 2024 SC OnLine SC 2709**, 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 and granted bail to the accused.
6. In the present case charge sheet has been filed. Trial is yet to commence.
7. Considering the age of the parties herein, the stage of investigation/trial 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 unless exempted and shall not misuse the liberty granted to him, failing which the Trial Judge shall be at liberty to proceed in accordance with law.
8. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(**Shampa Dutt (Paul), J.)**