

01.05.2025

Sl. No. 19

Court No.3

BM

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

CRM (M) 57 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 : MD. SAHIL HUSSAIN

... Petitioner

Dr. Arjun Chowdhury
Ms. Sunayana Parveen
Ms. Riya Agarwal
Ms. Mantu Mandal
Mr. Bappaditya Roy

... for the petitioner

Mr. Ujjwal Luksom
Ms. Namrata Das

... for the State

1. The petitioner's prayer for bail arises out of an order dated 24.03.2025 passed by the learned Special Judge (under POCSO Act), Siliguri in Special POCSO Case No.11(2) of 2025 in connection with Matigara Police Station Case No.98 of 2025 dated 09.02.2025 under Section 4 of the POCSO Act.

2. The petitioner's case is that he is a person aged about 19 years and the victim aged about 16 years had a love affair with him.

3. The State has placed the case diary wherein it appears from the medico legal examination report that the victim was aged about 16 years.

4. The victim stated before the Doctor that the accused/petitioner herein was her Instagram friend

and when he called her on phone, she went with him. In her statement under Section 164 of the Cr.P.C, it appears that the petitioner and the victim were prima facie in a love relationship (boy friend and girl friend).

5. 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, 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 trial and the statement of the victim girl made before the Doctor during her medical examination and under Section 164 of Cr.P.C and also 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 **one of which must be local** 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.

8. The petitioner shall not leave the jurisdiction of District-Darjeeling without prior permission of the trial court.

9. Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Shampa Dutt (Paul), J.)