

**Circuit Bench of  
Calcutta High Court  
at Jalpaiguri  
Appellate Side**

**02  
15.3.2019  
sh  
Ct. 3  
Allowed**

**C.R.M. 06 of 2019**

Re: Application under section 439 of the Code of Criminal Procedure filed on 11.03.2019 in connection with Kotwali Police Station Case No. 90 of 2019 dated 12.02.2019 under sections 365 of the Indian Penal Code.

**In Re: Mithun Roy. ...**

**... Petitioner**

Mr. Pintu Kumar Deb.

... For the Petitioner.

Mr. Aditi Shankar Chakraborty..Ld. P.P.

Mr. Nilay Chakraborty

... For the State.

This is an application under Section 439 of the Code of Criminal Procedure filed by the accused petitioner, Mithun Roy, son of Bikash Roy, who is in Jail custody since 13<sup>th</sup> February, 2019 in connection with G.R. Case No.505 of 2019 arising out of Kotwali Police Station Case No.90 of 2019 dated 12<sup>th</sup> February, 2019 under Section 365 of the Indian Penal Code.

Case diary has been placed before this Court by the learned Public Prosecutor, Mr. Aditi Shankar Chakraborty.

Perused the case diary. Heard the submissions advanced by the learned Public Prosecutor and learned advocate appearing for the accused petitioner.

The mother of the victim girl filed written complaint regarding missing of her minor girl. From the materials collected in the case diary, it appears that at the relevant point of time the victim girl was 16 years. The learned advocate appearing for the petitioner has submitted that the age of the accused is 19 years. During the investigation, the victim girl was recovered from the residence of the accused. The statement of the victim girl was recorded by the Learned Judicial Magistrate under Section 164 of the Code of Criminal Procedure. It appears the victim girl and the accused had some sort of intimacy.

Considering the period of detention of the accused petitioner and the fact of recovery of the victim girl, I do not find any justification for further detention of the accused petitioner.

The accused petitioner may find bail of Rs.10,000/- with two sureties of Rs.5000/- each on condition that he will meet the Investigation Officer once in a week for the next one month or till the completion of investigation whichever is earlier subject to the satisfaction of learned Chief Judicial Magistrate, Jalpaiguri.

Let a copy of this order be sent to the Learned Chief Judicial Magistrate, Jalpaiguri for his information and necessary action.

Thus the application being CRM 6 of 2019 is disposed.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Madhumati Mitra, J.)

