

DI. November
43. 18, 2020

C.R.M. 8846 of 2020

(Via Video Conference)

In the matter of : An application for bail under Section 439 of the Code of Criminal Procedure in connection with Dankuni Police Station Case No. 170 of 2018 dated May 30, 2018 under Sections 365/367/370/371 of the Indian Penal Code and adding Section 376D of the Indian Penal Code;

And

In the matter of : Sk. Jamsed Ali @ Jashed ...petitioner.

Versus

State of West Bengal ...opposite party.

Mr. Koustav Bagchi,
...for the petitioner.

Mr. Swapan Banerjee,
Mr. Suman De,
...for the State.

The petitioner undertakes to appropriately affirm and stamp the petition as per the Rules within one week of resumption of normal functioning of the Court. The petition is taken up through video conference on the basis of such undertaking.

The petitioner claims that he is in custody for nearly 900 days and renews his prayer after 18 months since there is no possibility of the trial being taken up in the near future. The matter pertains to trafficking and rape. The statement of the survivor recorded under Section 164 of the Code is clear. She was handed over by her husband and her mother-in-law to one Marjina Bibi for the

purpose of being given an employment as a sales personnel, but she was taken to Nagpur and from there to Mumbai. The survivor claims that the present petitioner, who is the husband of Marjina Bibi, raped her. However, the petitioner claims that the survivor has not even identified the petitioner.

The offence is grave and the statement of the survivor is credible and does not appear to be tutored. Ideally, the investigating agency should have ensured that the petitioner herein was identified by the survivor. However, merely because such exercise has not been undertaken would not imply that the petitioner was not involved or has been framed. The petitioner's name has been taken. It is not as if the petitioner has not been identified by the survivor. It may only be that such identification exercise has not been taken up yet.

On the basis of the material available and the statement of the survivor, the petitioner's prayer for bail cannot be acceded to.

CRM 8846 of 2020 is disposed of.

(Sanjib Banerjee, J.)

ar/dns

(Aniruddha Roy, J.)