

21.01.2021
Sl. No.19
AP/ss

CRM 87 of 2021

Asikul Ambia

... Petitioner.

Vs.

The State of West Bengal

... Respondent.

Mr. Debajit Kundu, Advocate

...for the petitioner present in Court.

M/s Arun Kumar Sarkar and
Abhijit Sarkar, Advocates

...for the respondent present in Court.

The present application has been filed by the petitioner seeking pre arrest bail in Malbazar Police Station Case No.383 of 2020 dated 25.10.2020 registered under Sections 448/376/506/34 of the Indian Penal Code.

The learned counsel for the petitioner submitted that the petitioner is 30 years of age and a physically disabled person. Complainant is residing in the neighbourhood of the petitioner. False complaint has been filed alleging rape against the petitioner. A concocted story of the incident is evident from the fact that in the complaint filed to the police it has been stated that the complainant was at the house alone when she was raped and her husband came later on. Further in the complaint to the police stand taken is that the incident happened in the same house and the complainant was taken in a different portion of the house. At the time when the petitioner entered her house she was busy in cooking. In the statement recorded under Section 164 of the Cr.P.C. stand taken is that there was an

attempt of rape made in a nearby house where the complainant was forcibly taken by the petitioner.

On the other hand, learned counsel for the respondent submitted that from the complaint and statement recorded by the complainant under Section 164 of the Cr.P.C. a clear case of attempt to rape is made out. Modesty of a woman is the question. The petitioner is not physically disabled. It is only that the petitioner is suffering from speech. No case is made out for pre arrest bail.

After hearing the learned counsel for the parties, we find that the petitioner is 30 years of age and the complainant is a married lady of the same age. There is contradiction in the version stated in the complaint to the police as compared to what has been stated by her in the statement recorded under Section 164 of the Cr.P.C. In the version to the police it was stated that the victim was raped in her house and her husband came later. She had been threatened not to disclose the incident to anyone but still she disclosed it. Force was also used. Whereas in the statement recorded under Section 164 of the Cr.P.C. the stand taken is that there was an attempt to outrage her modesty and she was taken to a nearby house. In the medical report, there is no injury found on the person of the complainant.

Considering the aforesaid factual matrix of the matter, we are of the opinion this is a fit case to grant pre arrest bail to the petitioner.

Accordingly, we direct that in the event of arrest, the petitioner be released on bail upon furnishing of bail bonds to the satisfaction of the arresting officer. The petitioner shall be bound by the conditions

laid down under Section 438(2) of the Code of Criminal Procedure, 1973.

The present petition is disposed of accordingly.

(Rajesh Bindal, J.)

(Saugata Bhattacharyya, J.)