

08.07.2021

Court No.28
Item No.18
(REJECTED)

Saswata
&
ab

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT
JALPAIGURI**

(Via Video Conference)

CRM 697 of 2021

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with Malbazar Police Station Case No. 82 of 2015 dated 19.02.2015 under Section 376D of the Indian Penal Code (G.R.Case no. 698 of 2015).

In the matter of : **Pari Chand Oraon**

...Petitioner

Mr. Debajit Kundu

...For the Petitioner

**Mr. Nilay Chakraborty
Mr. Tapan Bhattacharjee**

...For the State.

The Advocate-on-record of the petitioner undertakes to affirm and stamp the petition/application as per the Rules within four weeks from date. Subject to such undertaking, the application is taken up for hearing.

This is an application for bail in connection with Malbazar Police Station Case No. 82 of 2015 under Section 376D of the Indian Penal Code at the behest of the petitioner.

It is really a matter of great concern that the learned Additional Sessions Judge, who is in the midst of the trial, granted bail to 5 of such accused out of 6 even after the victim girl gave evidence therein. She categorically identified all 6 persons and alleges that they collectively committed rape upon her, yet we are amazed that the 5 out of 6 persons have been granted bail by the learned Additional Sessions Judge. Even if the mother of the victim girl turned hostile but it does not whittled down the efficacy of the evidence given by the victim girl. The petitioner tries to claim parity, as there was an omnibus allegation against all 6 co-accused.

We have already indicated and shown our deep anguish over the manner in which 5 of such accused have been enlarged on bail, such

wrong cannot be perpetuated for all time to come. The Court cannot be a mute spectator when the wrong appears to be patent and enuring such wrong to the benefit of the other. The statement of the victim girl before the Court clearly indicates the involvement of the petitioner to the commission of offence along with the 5 other co-accused.

Considering the nature of such evidence and the offence having committed, we do not think that the petitioner should be released on bail solely on the ground of parity.

CRM 697 of 2021 is, accordingly, ***rejected***.

(Harish Tandon, J.)

(Subhasis Dasgupta, J.)