

CRM 8775 of 2021
(via video conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure ;

And

In Re : Prosenjit Sardar

.....Petitioner

Mr. Atis Kumar Biswas

Mr. Amit Singh

Ms. Jyoti Agarwal

.....for the Petitioner

Ms. Zareen N. Khan

Mr. Ashok Das

.....for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Bhimpur P.S. Case No. 247 of 2021 dated 26.08.2021 under Sections 376/506 of the Indian Penal Code.

Mr. Biswas, learned lawyer appearing for the petitioner submitted that the present petitioner is in custody for about 193 days. Charge sheet has been filed. Custodial detention is not necessary. There was a consensual physical relationship between the parties. Both are adults. None is to be blamed for this. The present petitioner is only falsely implicated with some ulterior motives. Since charge sheet has been submitted, there is no necessity for custodial detention of the petitioner. accordingly, he prays for bail on any stringent condition.

Mr. Das, learned lawyer appearing for the State submitted, on the other hand, that strong incriminating elements are there against

the present petitioner. Inviting our attention to the statement of the victim recorded under Section 164 of the Cr.P.C. along with seizure memo, he stated that the photographs of the victim were taken and all those personal and offensive photographs of the victim are recovered from the mobile handset of the present petitioner. Because of strong incriminating elements and on the seriousness of offence, he strongly opposed the bail application.

We have heard the rival submissions. Perused the case diary.

We find that there is an allegation of rape against the present petitioner although the victim lady refused medical examination. We have also found seizure list and retrieved personal photographs of the victim. On perusal of the case diary and other materials, we are not inclined to allow the bail to the present petitioner because of its seriousness and gravity. Accordingly, the same stands rejected at this stage.

We are told that the case has been committed to the Court of the Learned District Judge, Nadia. We, however, direct the Learned District Judge to expedite the trial.

The application CRM 8775 of 2021 is, accordingly, dismissed.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)