

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL MISCELLANEOUS JURISDICTION**

CRM (A) 81 of 2022

In re : An application under Section 439 of the Code of Criminal Procedure, 1973.

In the matter of : **Apan Saha @ Mithun Saha**

..... petitioner

Mr. Jaydeep Kanta Bhowmik

.....For the petitioner

Mr. Tapan Bhattacharjee

.....For the State

Apprehending arrest in connection with Bhaktinagar Police Station Case No. 51/2022 dated 09.01.2022 under Sections 417/376/506 of the Indian Penal Code, the present application has been preferred.

Mr. Bhowmik, learned advocate appearing for the petitioner submits that there was a love relationship between the petitioner, who is aged about 25 years and the victim, who is aged about 22 years. Both of them are adults and knew the consequences of the consensual relationship. The petitioner had not in any manner misled the victim and as such, the ingredients of Sections 417 and 376 of the Indian Penal Code are not attracted. In the said conspectus, custodial interrogation may not be necessary.

Mr. Bhattacharjee, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to the

statement of the victim girl, as recorded under Section 164 of the Code as well as the medical report. He further submits that the petitioner is the brother of the owner of Babadham Enterprise. The victim is employed in the said Enterprise.

In reply, Mr. Bhowmik submits that the petitioner works in the said Enterprise and is not the owner.

Heard the learned advocates appearing for the respective parties and considered the materials in the case diary.

Prima facie, there are strong incriminating materials in the case diary against the petitioner. There was an employer-employee relationship between the victim and the said Enterprise, which is owned by the petitioner's brother. It appears from her statement that she was influenced and misled on the basis of such relationship. Considering the seriousness of the offence and the nature of accusations, we are not inclined to allow the petitioner's prayer.

The application being CRM (A) 81 of 2022 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.)