

03.03.2022

COURT : 01
ITEM : 01
MATTER : 439
STATUS : REJECTED
TRANSCRIBER : nandy

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

CRM (DB) 40 of 2022

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed on February 3, 2022 in connection with Maynaguri Police Station Case No. 487 of 2021 dated 27.09.2021 under Sections 376(2)(j)(k)(1)/325/354/34 of the Indian Penal Code. (G.R. Case No. 5256 of 2021)

And

In the matter of: **Mintu Haque @ Ashraful**

...Petitioner

Mr. Sudip Guha, Advocate

...for the Petitioner

Mr. Aditi Shankar Chakraborty, Learned A.P.P.

Mr. Ujjwal Luksom, Advocate

Mr. Tapan Bhattacharjee, Advocate

...for the State

The petitioner is seeking bail in connection with Maynaguri Police Station Case No. 487 of 2021 dated 27.09.2021 under Sections 376(2)(j)(k)(1)/325/354/34 of the Indian Penal Code

Pursuant to the order dated March 1, 2022, the Superintendent of Police, the Investigating Officer and the Inspector-in-Charge of the concerned Police Station are personally present in Court today. The Superintendent of Police, through learned Additional Public Prosecutor hands over the communication dated March 2, 2022 indicating that administrative steps have been taken against the recalcitrant Investigating Officer immediately after the order dated March 1, 2022 was communicated to him.

The instant case pertains to a serious crime, having committed upon a mentally retarded/unsound lady who has alleged commission of rape against her by the petitioner. On the last occasion, we had perused the statement of the victim lady recorded under Section 164 of the Code of Criminal Procedure wherefrom we noticed that at the time of commission of the crime, the husband was present. There was no statement of the husband in the case diary, but we noticed that the said husband has been shown as a witness in the chargesheet. Precisely for such reason, we directed the presence of the high officials of the Police department. Today the learned Additional Public Prosecutor hands over the case diary which contains the statement of the husband of the victim lady recorded under Sections 161 and 164 of the Code of Criminal Procedure.

After perusing the statement of the husband, who in our opinion is a witness, the complicity of the petitioner in commission of an offence cannot be ruled out at this stage. The seriousness of the charges levelled against the petitioner has larger ramification on the society, more particularly, the lady who is incapable and suffering from several mental disorders. Even though the chargesheet has been submitted, the contention of the petitioner does not instill any confidence in us that he would not misuse the liberty if granted to him.

Accordingly, the prayer for bail is **rejected**.

The application for bail being **CRM (DB) 40 of 2022** is **dismissed**.

However, the rejection of the application shall not have any persuasive effect on the departmental proceeding initiated against the Investigating Officer which shall be decided independently and on the basis of materials unearth during such proceedings.

The personal appearance of the respective police officials are dispensed with.

We request the learned Sessions Judge to expedite the trial of the case and we hope and trust that the Investigating Officer shall cooperate and assist the Sessions Judge in timely disposal of the proceedings.

(Harish Tandon, J)

(Rabindranath Samanta, J)