

24.01.2023  
Sl. No.22  
akd  
[Rejected]

**C. R. M. (DB) 57 of 2023**

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 22.12.2022 in connection with CBI/SCB/Kolkata Case No. RC0562021S0051 dated 16.12.2021 under Sections 143/144/147/148/149/427/326/376/511/34 of the Indian Penal Code.

And

In Re: ***Sekh Kabirul @ Sk. Kabirul***

... .. Petitioner

Mr. Soumyajit Das Mahapatra  
Mr. Kunal Ganguly  
Ms. Madhurai Sinha

... .. for the petitioner

Mr. Dhiraj Trivedi .. Dy. Solicitor General of India  
Mr. Anirban Mitra  
Mr. Amajit De

... .. for the CBI

It is submitted on behalf of the petitioner that he is in custody for about 83 days. Investigation is complete.

Learned Deputy Solicitor General of India opposes the prayer for bail and submits petitioner is the principal assailant. He had attempted to rape the victim.

We have considered the materials on record. It is true there is some variation in the statement of the victim recorded under Section 164 of the Code of Criminal Procedure vis-à-vis the FIR. But her statement recorded under Section 164 of the Code of Criminal Procedure specifically alleges that the petitioner attempted to rape her. Petitioner does not stand on the same footing with co-accuseds against whom no specific allegation of attempt to rape have been made. Keeping in mind the principal role played by the petitioner in the crime, we are not inclined to grant bail to him at this stage.

The application for bail is thus **rejected**.

**(Ajay Kumar Gupta, J.)**

**(Joymalya Bagchi, J.)**

