

10.04.2023
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allowed

CRM(DB) No. 872 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Baranagar Police Station Case No. 29 of 2023 dated 17.01.2023 under Sections 376D of the Indian Penal Code.

And
In Re : Sanjay Dey & Anr. petitioners

Mr. Robiul Islam
Mr. Raju Mondal
....for the petitioners

Mr. Sanjoy Bardhan
Mr. Palash Chandra Majhi
.... for the State

Learned Counsel for the petitioners submits wife of the petitioner no. 1 was a victim of sexual offence at the hand of the husband of the present victim. A criminal case was registered. In retaliation the present case has been registered.

Learned Counsel for the State produces the case diary and opposes the prayer for bail.

We have considered the materials on record. Victim alleged before the Magistrate that she was forcibly ravished. However, there is enmity between the parties. A prior criminal case alleging rape of the wife of the petitioner no. 1 was instituted against the husband of the victim. Credibility of her statement and possibility of false implication requires to be assessed in the backdrop of the aforesaid circumstances. Hence, we are inclined to grant bail to the petitioners, however, subject to strict conditions.

Accordingly, we direct that the petitioners shall be released on bail upon furnishing a bond of Rs.20,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Barrackpore subject to the further condition that the petitioners shall not enter the jurisdiction of Baranagar Police Station except for the purpose of investigation and attending court proceeding and provide address where they shall presently reside to the investigating agency and the court below and report to the officer-in-charge within whose jurisdiction they shall presently reside once in a week until further orders. Petitioners shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioners fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

(Partha Sarathi Sen, J.)

(Joymalya Bagchi, J.)