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rejected

C.R.M.(DB) No. 1821 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kanksa Police Station Case No. 231 of 2022 dated 06.07.2022 under Section 376D of the Indian Penal Code and under Section 6 of the POCSO Act and subsequently charge-sheet submitted under Section 376(2)(f) of the Indian Penal Code and under Section 6 of the POCSO Act. .

In Re : Sagar Bagdi And
.... petitioner

Mr. Milon Mukherjee, Sr. Adv.
Mr. Arnab Chatterjee
Ms. Poulami Bose
.....for the petitioner

Mrs. Anasuya Sinha
Mr. Pinak Kumar Mitra
..... for the State
Ms. Minoti Gomes
Ms. Sreemoyee Mukherjee
Mr. Kuntal Banerjee
..... for the defac

Learned Counsel for the petitioner submits there was enmity between him and one Rana Protap Singh. He was falsely implicated in the present case. Case was registered through a court complaint after about a month. CDRs collected in the course of investigation do not establish the presence of the petitioner at the place of occurrence. He prays for bail.

Learned Counsel for the State opposes the prayer for bail. She draws our attention to the statement of the minor and

the medical treatment sheet. She also submits date has been fixed for consideration of charge.

Learned Counsel for the de facto complainant also opposes the prayer for bail.

We have considered the materials on record. Statement of the minor unequivocally implicates the petitioner in the offence of penetrative sexual assault. Her mother contends immediately after the incident she was medically examined. There are marks of injuries on her person along with bleeding from private parts. Injuries present on the body rules out the hypothetical assumption of menstrual bleeding. Aforesaid consistent evidence with regard to the offence of rape and the statutory presumption in law do not persuade us to disbelieve the victim girl at this stage on the plea of alleged enmity. It is also relevant to note that the location of an individual via CDR is an approximate one and cannot override the statement of the victim.

In the light of the aforesaid materials on record and as vulnerable witness is yet to be examined we do not consider it prudent to enlarge the petitioner on bail at this stage.

The application for bail is, thus, rejected.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)