

13.06.2023
Sl. 45
Court No.29
Suvayan
(Rejected)

C.R.M. (DB) 2234 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in arising out of **Panchla** P. S. Case No. **289** dated **23.08.2021** under Sections **376/417** of the IPC, 1860.
And

In the matter of: **Sk. Mujibar Rahaman @ Sekh Mujibar Rahaman**

....petitioner

Mr. Sabyasachi Chatterjee
Mr. Akashdeep Mukherjee
Mr. Pritam Chatterjee
Mr. Soummyadeep Nag
Mr. Soumali Das
Mr. Badrul Karim

...for the petitioner.

Mr. Rudradipta Nandy, APP
Ms. Sonali Das

...for the State.

Mr. Soumya Basu Roy Chowdhuri
Mr. Malay Mukherjee

...for the de facto complainant.

1. Heard the learned Counsel for both the parties.
2. The name of the petitioner finds place in the FIR lodged by the informant in a statement recorded under Section 164 Cr.P.C. and in the statement of the victim recorded under Section 161 Cr.P.C.
3. Learned Counsel for the petitioner takes us through the FIR where the name of the petitioner finds place in the last paragraph of the FIR. The petitioner who is admittedly an influential person is alleged to have ravished the victim when the victim was brought to him for a settlement by her sister and brother-in-law so far as her physical relationship with the principal accused, Sk. Akkash Uddin Mollah in whose house she was a maidservant is concerned. In course of such meeting the victim is stated to have been called thrice by the present petitioner and he is stated to have ravished the

victim.

4. On thorough scrutiny of the Case Diary produce before us, we are unable to distinguish the act of the present petitioner to be different from the act of the principal accused. It is well-settled in law that the Court is to find a *prima facie* case at the time of consideration of application for bail without subtracting from or adding to anything to the police records.
5. It is needless to mention here that if charge-sheet is not filed within the time the right to default bail is available to the petitioner.
6. Regard being had to the facts and submissions, factum of permanent residence of the petitioners and gravity of offence, we are not inclined to exercise our discretion in favour of the petitioner under Section 439 of the Cr.P.C. at this stage.
7. Accordingly, the prayer for bail of the petitioner is rejected.
6. CRM (DB) 2234 of 2023 is dismissed.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)