

01.12.2023.
32.
Ct.No.28
as
(Rejected)

C.R.M. (DB) 4191 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bagdah P. S. Case No.658 of 2022 dated 26.08.2022 under Sections 376(2)(c)/376D of the Indian Penal Code.

In the matter of : **Altaf Hossain @ Hussain.**
... Petitioner.

Mr. Angshuman Chakraborty,
Mr. S. S. Saha.
...for the Petitioner.

Mr. Saibal Bapuli, Id. A.P.P.,
Mr. Bibaswan Bhattacharyya.
...for the State.

Mr. Amanul Islam,
Mr. Sourav Mukherjee.
...for the de-facto complainant.

1. Petitioner is a member of BSF. He contends allegation of rape is out and out false. Victim and the minor daughter have not supported the case of rape. Accordingly, he prays for bail.

2. Learned Additional Public Prosecutor for the State opposes the bail prayer. He contends there are clinching evidence in the form of DNA report which shows the presence of sperm of the petitioner in the vaginal swab of the victim. Petitioner is an influential person and had exerted pressure to win over the victim and other witnesses.

3. We have considered the materials on record. Allegation involves rape by a member of BSF. Statement of the witnesses under Section 164 of the Code of Criminal

Procedure and the T. I. Parade report shows the involvement of the petitioner. Strangely, during trial victim and her relation resiled from their earlier statements presumably under the influence from hostile quarters. But other evidence on record viz., DNA report shows presence of petitioner's sperm in the vaginal swab and other articles seized during investigation. These pieces of evidence are yet to be adduced. Involvement of the petitioner requires to be assessed in the light of the entire evidence on record. Impact of release of the petitioner would cause detrimental impact on the progress of trial which is already palpable from the prevaricating stance of the witnesses.

4. Hence, we are not inclined to grant bail to the petitioner at this stage.

5. Accordingly, the prayer for bail of the petitioner is rejected.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)