

D/L. 39.
January 30, 2023.
MNS

***Calcutta High Court
In the Circuit Bench at Jalpaiguri***

CRM (DB) No. 5 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed on 02.01.2023 in connection with S. C. Case No. 203 of 2020 arising out of Madarihat Police Station Case No. 98 of 2022 dated 18.06.2022 under Sections 376(2)(I) of the Indian Penal Code.

In the matter of : Anthoney Guriya
... Petitioner.

Mr. Arijit Ghosh,
Mrs. Swarnali Ghosh (Sengupta)
...for the Petitioner.

Mr. Ujjal Luksom,
Mr. Dhiman Sil
.....for the State.

Learned counsel for the petitioner submits that the petitioner is behind bars for about 226 days. Although the charge-sheet has been submitted, the trial has not yet commenced. It is contended that allegation was levelled against the petitioner under Section 376(2)(I) of the Indian Penal code. It is further submitted that the petitioner had a long-standing relation with the victim lady and, as such, an instance of the offence as alleged could not have been committed by the petitioner.

Learned counsel for the State controverts such allegations and submits that there is nothing on record to indicate that there was a long-standing relation between

them. Moreover, in view of the victim being verbally and auditorily challenged, there is a little or no scope of the said victim herself giving any evidence.

Be that as it may, from the circumstances of the case, we do not find any mitigating factor to enlarge the petitioner on bail at the present stage. Inasmuch as the allegation of prior relation between the victim and the petitioner is concerned, as of now, we do not find anything on record to substantiate such allegation, of course, subject to further materials being produced in the trial.

Hence, CRM (DB) 5 of 2023 is dismissed.

However, merits of the complaints have not been gone into by this Court.

It is expected that the trial shall be concluded as expeditiously as possible, keeping in view the long period of custody of the petitioner till date.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)