

08.02.2023
20
mb

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

CRM (DB) 7 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 Maynaguri Police Station Case No. 358 of 2022 dated 05.09.2022 under Sections 341/376(2)(n)/506 of the Indian Penal.

In the matter of : Biswajit Mandal

... petitioner

Mr. Jaydeep Kanta Bhowmik,
Mr. Aminur Hossain,
Mr. Sayantan Bhowmik

...for the petitioner

Mr. Niloy Chakraborty,
Mr. Sagnik Sankar Sikdar

.....for the State.

Learned counsel for the petitioner contends that the alleged victim is an adult and there is every possibility, as borne out also by the statement of the father of the victim, of the relation being consensual, which rules out the allegation as made out against the petitioner.

That apart, it is submitted that the petitioner is in custody for more than four months and charge sheet has already been filed.

Learned counsel appearing for the State seriously opposes the prayer for bail and contends that it is apparent, *prima facie*, from the materials on record that the petitioner gave out to the victim lady that he was unmarried and on

such presumption the relation took place. As such, the petitioner cannot be said to have entered into the relation with full knowledge and, as such, consent of the victim, as alleged by the petitioner, is diluted.

Considered the submissions of the parties.

It is evident that the charge sheet has already been filed. Despite the nature of the allegation made against the petitioner, we are of the opinion that custodial trial is not necessary in the facts of the case.

Accordingly, CRM (DB) 7 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish a bond of Rs. 20,000/- (Rupees Twenty Thousand, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Jalpaiguri. Moreover, the petitioner shall not enter into the territorial jurisdiction of the police station where the victim resides during the entire period of trial and shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade such person from disclosing such facts to the court or to any police officer or tamper with evidence in any manner whatsoever.

The petitioner shall attend on each and every date of trial and for such purpose may enter the territorial

jurisdiction of the concerned police station of the victim, if so necessary.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)