

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

08.09.2023

Court No.01
rpan/ 12

C.R.M. (A) 720 of 2023

In Re.: Enamul Haque

- Petitioner

Mr. Jaydeep Kanta Bhowmik,
Ms. Rikta Sarkar
... for the Petitioner.

Mr. Aditi Shankar Chakraborty,
Mr. Ujjwal Luksom
Ms. Namrata Das
... for the State.
Ms. Bedashruti Bose
... for the *de facto*/complainant.

Apprehending arrest in connection with Rajganj Police Station Case No.360 of 2023 dated 15.07.2023 under Sections 376(2)(f)/420/506/509 of the Indian Penal Code, the present application has been preferred.

Mr. Bhowmik, learned counsel appearing on behalf of the petitioner submits that a relationship existed between the petitioner and the victim lady. The petitioner has been falsely implicated in the alleged offences complained of in the FIR. He submits that since the petitioner has cooperated with the Investigating Officer by handing over his mobile phone, no custodial interrogation of the petitioner may be necessary.

Ms. Bose, learned counsel appears on behalf of the *de facto* / complainant.

Ms. Das, learned counsel appearing on behalf of the State opposes the prayer made on behalf of the petitioner. She draws the attention of this Court to the allegations made in the FIR and

the statement of the victim lady made under Section 164 of the Code of Criminal Procedure. She submits that since a partially damaged mobile phone has been handed over to the Investigating Officer, the custodial interrogation of the petitioner is absolutely necessary.

Considering the rival submissions of the parties and materials placed on record, this Court is of the view that even though it *prima facie* appears that there is a consensual relationship between the victim lady and the petitioner, the petitioner did not have the liberty of circulating indecent pictures of the victim lady amongst the relatives/friends of the petitioner. The victim lady never gave any consent to the petitioner for such alleged circulation. This Court also takes into account the fact that the victim lady tried to commit suicide by consuming poison.

Accordingly, **C.R.M. (A) 720 of 2023** is **dismissed**.

Needless to mention that the interim order passed earlier is vacated.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Lapita Banerji, J.)

(Tapabrata Chakraborty, J.)