

25.09.2023.

Item No. 7

Court No.1

ap

*CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE*

C.R.M. (DB) No. 565 of 2023

In the matter of:- An application for bail under Section 439 of the Code of Criminal Procedure, 1973 filed on 11.09.2023 in connection with Mathabhanga Police Station Case No. 588 of 2022 dated 29.09.2022 under Sections 498A/376/511 of the Indian Penal Code read with Sections 3/4 of the Dowry Prohibition Act.

And

In Re: **Jayjit Ray @ Jayjit Roy @ Joyjit Roy @ Jayjeet Ray.**

...petitioner

Mr. Arijit Ghosh.

...For the petitioner

Mr. Ujjwal Luksom,
Mr. Sagnik Sarkar Sikder.

...For the State

1. This application for bail is made by the brother-in-law of the complainant/wife and FIR was registered on 29th September, 2022 under Sections 498A/376/511 of the Indian Penal Code read with Sections 3/4 of the Dowry Prohibition Act.

2. It appears from the submissions of the parties that the husband and in-laws are on bail.

3. Allegation against the petitioner is that six months prior to the petitioner leaving the marital house, he entered into a room and tried to molest her with an intention to commit rape. Despite whereof, FIR has been

registered under Section 376 of the Indian Penal Code against the petitioner as well.

4. This Court is of the view that statements under Sections 164 and 161 of the Code of Criminal Procedure do not necessarily by themselves constitute a charge under Section 376 of the Indian Penal Code. These are however prima facie observations made only for the purpose of bail. There are allegations of assault or abuse of the victim by the other accused persons. Investigation is still on.

5. In the backdrop of the above facts and considering the nature of the offence and the period of detention in custody, this Court is of the view that the prayer for bail of the petitioner must be allowed.

6. Let the petitioner be released on bail upon furnishing a bond of Rs.20,000/- with two sureties of Rs.10,000/- each, one of whom must be local, to the satisfaction of the Learned Additional Chief Judicial Magistrate, Mathabhanga at Cooch Behar.

7. It is further directed that after release, the petitioner shall report to the Investigating Officer of the case once in a week or as and when called for and undertakes before this Court to co-operate with the investigation unless he is prevented by any reason beyond his control.

8. We make it clear that if the petitioner fails to make himself available before the Investigating Officer of the

case, he shall have the liberty to pray for cancellation the bail granted to the petitioner.

9. C.R.M. (DB) No. 565 of 2023 is, thus, disposed of.

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

(*Supratim Bhattacharya, J.*) (*Rajasekhar Mantha, J.*)