

D/L. 18
January 31, 2023
MNS

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (DB) 472 of 2022

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 23.12.2022 in connection with Session Case No. 121(7)/2022 arising out of Siliguri Women Police Station Case No. 65 of 2022 dated 21.04.2022 under Sections 376/307 of the Indian Penal Code.

And

In the matter of: Dipak Roy @ Dipok Roy

.... Petitioner

Mr. Hillol Saha Podder,
Ms. Musumi Das

... for the petitioner

Mr. Kallol Acharjee,
Ms. Namrata Das

... for the State

Learned counsel for the petitioner has made out a strong case as regards there being a discrepancy in the charges levelled against the petitioner on the basis of the FIR and other documents. It is also submitted in a justified manner that the medical report does not corroborate the allegation under Section 376 of the Indian Penal Code.

Learned counsel for the petitioner further submits that the petitioner is in custody for nine months.

Learned counsel for the State, while conceding to the fact that the medical report might not totally corroborate the allegation raised in the FIR, points out to the statement of the victim under Section 164 of the Code of Criminal Procedure as well as the complaint, which indicates several factors to show that the petitioner used to blackmail the victim and extort money from the victim.

It is unfortunate that the appropriate Sections in the above regard, in consonance with the FIR as well as the statement of the victim under Section 164 of the Code of Criminal Procedure, have not been clamped against the petitioner by the police authorities.

Be that as it may, since there is some doubt as to whether the ingredients of Section 376 are prima facie applicable and keeping in mind the custody of the petitioner for nine months, we are of the opinion that bail ought to be granted to the petitioner.

Accordingly, CRM (DB) 472 of 2022 is allowed, thereby granting bail to the petitioner on condition that the petitioner furnishes bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Siliguri.

The petitioner shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend the trial on each and every date. The petitioner shall not make any inducement,

threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.

It may further be noted that the police authorities are directed to include the proper charges, by filing a supplementary charge-sheet if necessary, in consonance with the allegations made in the FIR and the statement of the victim under Section 164 of the Code of Criminal Procedure, as indicated in this order.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)