

07.12.2023

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Allowed

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri

C.R.M. (DB) No. 676 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Rajganj Police Station Case No. 323 of 2023 dated 29.06.2023 under Sections 448/341/324/325/376/506/34 of the Indian Penal Code.

And

In Re : Khagen Roy petitioner

Mr. Sudip Guha
Mr. Sandip Guha Ray
.....for the petitioner

Mr. Tapan Bhattacharjee
Mr. Dhiman Sil
.....for the State

1. Learned Counsel for the petitioner submits he is in custody for 85 days. He prays for bail.

2. Learned Counsel appearing for the State opposes the prayer for bail.

3. We have considered the materials on record including the statement of the victim. She stated petitioner is a relative. In the afternoon he came into the room and raped her. Credibility of the allegation of forcible rape is to be assessed in the light of the fact that the incident occurred in the afternoon when the children of the victim were near the place of

occurrence. She did not raise alarm nor did she come out with the incident immediately. Keeping in mind the facts and the period of detention suffered by the petitioner i.e. 85 days, we are inclined to grant bail to him.

4. Accordingly we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Jalpaiguri, subject to condition that the petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

5. In the event the petitioner fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

6. The application for bail is, accordingly, allowed.

(Apurba Sinha Ray, J.)

(Joymalya Bagchi, J.)