

11.12.2023

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rejected

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri

C.R.M.(DB) No. 681 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Matigara Police Station Case No. 436 of 2023 dated 07.06.2023 under Sections 376D of the Indian Penal Code.

And

In Re : Alay Roy petitioner

Mr. Jaydeep Kanta Bhowmik
Mr. Sayantan Bhowmik
.....for the petitioner

Mr. Nilay Chakraborty
Mr. Sagnik Sankar Dey
..... for the State

1. Learned Counsel for the petitioner submits his client is in custody for 187 days. It is also submitted the petitioner and the victim are college mates. They were caught in a compromising position. In order to cover her embarrassment victim has falsely implicated the petitioner in the offence of forcible rape. He prays for bail.

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

3. We have considered the materials on record including the statement of the victim girl. She stated that she had been forcibly raped by the petitioner with the assistance of the co-accused. Manner and circumstances in which the victim alleges to have been raped with the assistance of the co-accused does not support the defence plea of intimate association between the two persons. With regard to submission that the case was concocted in order to avoid embarrassment of the victim is also not borne out from contemporaneous records. Under such circumstances and in view of the gravity of the offence, we are not inclined to grant bail to the petitioner at this stage.

4. Application for bail is, thus, rejected.

5. We request the trial Judge to examine the victim at the earliest.

(Apurba Sinha Ray, J.)

(Joymalya Bagchi, J.)