

11.12.2023

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rejected

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri

C.R.M.(DB) No. 682 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with New Jalpaiguri Police Station Case No. 1272 of 2022 dated 04.12.2022 under Sections 376(2)(f)/376(2)(n)/109/506 of the Indian Penal Code and Section 6 of the POCSO Act.

And

In Re : Anil Kumar Chakraborty petitioner

Mr. Sekhar Kumar Basu, Sr. Adv.
Mr. Soubhik Mitter
Ms. Rajnandini Das
Mr. Karan Bapuli

..... for the petitioner

Mr. Aditi Shankar Chakraborty, learned APP
Mr. Subhasish Misra

..... for the State

Mr. Aniruddha Biswas

..... for the victim

1. Learned senior Counsel for the petitioner submits his client is a septuagenarian. It is also submitted in September, 2019 he bequeathed his property to one of his daughters. In retaliation he has been falsely implicated by his grand daughter whose mother was deprived in the Will. Victim has already been examined. Accordingly, he renews his bail prayer.

2. Learned Counsel for the State opposes the prayer for bail and submits petitioner had contacted the mother of the victim from jail. Parents of the victim are yet to be examined. There is high possibility of witnesses being influenced if the petitioner is released on bail at this stage.

3. Learned Counsel for the victim also opposes the prayer for bail.

4. We have considered the materials on record. Petitioner is the maternal grandfather of the victim. It is alleged that he had subjected the victim to penetrative sexual assault on a number of occasions and lastly in May, 2019. FIR came to be registered in 2022. Though delay in lodging FIR may be due to close relationship between the parties, however, it is contended that a dispute over bequeathing properties had cropped up in the family in 2019. These issues required to be thrashed out on the basis of the evidence on record during trial. Though the victim has been examined we are informed her parents are proposed to be examined on 8th January, 2024. Materials have been placed before us which shows petitioner, while in jail had contacted the mother of the victim over mobile phone. Under such circumstances, we do not consider it prudent to enlarge the petitioner on bail at this stage when vulnerable witnesses i.e. parents of the victim girl are yet to be examined. Hence, we are not inclined to grant bail to the petitioner at this stage.

5. Application for bail is, thus, rejected.

6. We request the trial court to examine the parents of the victim on the next date and if it is unable to do so due to circumstances beyond the control of Court, their examination shall be done positively within a fortnight thereof without granting unnecessary adjournment to either of the parties.

7. We also direct the trial court to take steps so that the victim is able to participate in the proceeding through a lawyer of her own choice or through a lawyer empanelled with the District Legal Services Authority, as the case may be, who shall assist the learned Public Prosecutor-in-charge in conducting the trial. Parties shall communicate the order to the trial court for due compliance.

(Apurba Sinha Ray, J.)

(Joymalya Bagchi, J.)