

14.05.2024

Sl. No.53
akd

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri

C. R. M. (DB) 220 of 2024

In Re : An application for cancellation of bail under Section 439(2) of the Code of Criminal Procedure filed on 22.04.2024 :

A N D

In Re : Sabitri Munda

... Petitioner

Mr. Somraj Paul
Mr. Avejit Kundu

... .. for the petitioner

Mr. Bikramaditya Ghosh
Mr. Sudipto Saha

... .. for the opposite party no.2

Mr. Ujjwal Luksom
Mr. Sagnik Shankar Sikdar

... .. for the State

1. Order dated 06.03.2024 granting bail to opposite party no.2 has been assailed.
2. It is submitted on behalf of the petitioner that she is a member of the Scheduled Tribe community. No offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was added to the FIR or charge sheet. Without granting opportunity of hearing to the petitioner, bail has been granted to opposite party no.2. Accordingly, she prays for cancellation of bail.
3. Learned Advocate for the opposite party no.2 submits there was a love affair between himself and the petitioner. No misrepresentation had been made at the inception of the relationship.

4. Learned Advocate for the State contends nowhere in the length and breadth of the FIR it is alleged that petitioner was a member of the Scheduled Tribe or that she had been raped due to such status.
5. We have considered the materials on record. We have also gone through the FIR. From the FIR and other materials collected during investigation we are in agreement with the learned Sessions Judge that the parties were major at the time of occurrence and there was a romantic relationship between them. Allegation of rape has to be assessed in the light of the pre-existing amorous relationship between the parties during trial. Nowhere in the FIR nor in her statement before Magistrate victim alleged that she had been forcibly raped as a member of the Scheduled Tribe community.
6. Under such circumstances, we do not find any justification to cancel the bail granted to opposite party no.2 herein.
7. In the event opposite party no.2 threatens or intimidates the victim or other witnesses, it shall be open to the petitioner to take appropriate steps in accordance with law, if so advised.
8. With these observations, CRM (DB) 220 of 2024 is disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)