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Allowed

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri

C.R.M. (DB) No. 228 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Maynaguri Police Station Case No. 490 of 2022 dated 12.12.2022 under Sections 376(2)(n)/506 of the Indian Penal Code read with Section 6 of the POCSO Act.

And
In Re : Paran Mallik @ Mallick petitioner

Mr. Arijit Ghosh
.... for the petitioner

Mr. Aditi Shankar Chakraborty, learned APP
Mr. Ujjwal Luksom
Mr. Chattu Roy
.... for the State

1. Learned Counsel for the petitioner submits there is delay in lodging FIR. Allegation of forcible rape is patently absurd. Accordingly, he prays for bail.

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

3. In spite of service nobody appears for the de facto complainant.

4. We have considered the materials on record. In the FIR it is alleged petitioner had promised that he would assist the victim to become a journalist. On such promise he had raped her in 2019. Thereafter she had been threatened and raped repeatedly. Till 2022 no FIR was registered. Statement of

the victim does not disclose forcible rape in 2019. Credibility of her version is to be assessed in the light of the aforesaid dichotomy and delay in lodging FIR during trial. Petitioner is in custody for a considerable period of time. Under such circumstances, we are inclined to grant bail to the petitioner.

5. Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two registered sureties of like amount each, to the satisfaction of the learned Judge, Special Court under POCSO Act-cum-learned Additional Sessions Judge, 2nd Court, Jalpaiguri, subject to condition that petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

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

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

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)