

0909

2024

MONDAY

COURT : 01
ITEM : 08
MATTER : 439
STATUS : REJECTED
BENCH ID : 1430
TRANSCRIBER : NANDY

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 374 of 2024

In Re:- An application for **Bail** under section **439** of the Code of Criminal Procedure filed on July 18, 2024 in connection with Bhaktinagar Police Station Case No. 53 of 2024 dated 22.01.2024 under Sections 448/354/354(C)/376(2)(i)/376D/ 385/509/506/34 of the Indian Penal Code.

And

In the matter of : **SANJAY ROY**

.....Petitioner

Mr. Debajit Kundu, Advocate

.....for the Petitioner

Mr. Saikat Chatterjee, Advocate

Mr. Chattu Roy, Advocate

.....for the State

1. The incident happened has raised an alarm where a girl having mental disability could not live with a sense of security and the miscreants happened to be the offenders ravished her chastity and also raped her twice in the wee hours having found her alone in the house. The orderly society cannot accept insecurity generated amongst the girls or the ladies living alone and if the person like the petitioner before us, took the advantage of the situation and committed the heinous crime not only once but twice, a strong message must go to the society in order to percolate a sense that every citizen of the country not only has a freedom to live with dignity but also has a fundamental right to remain safe. The society must realize and wake up to the call being the need of the hour and resist such heinous crime and its recurrence must be stopped for all time to come.
2. Astonishingly, the counsel for the petitioner having gone through the statements of the victim girl recorded under

Section 164 of the Code of Criminal Procedure and also incriminating materials revealed in course of an investigation submits that the petitioner is innocent and is a victim of the circumstances.

3. The role attributed to the commission of an offence is vividly unearthed in the investigation and, in the event, such a person is permitted to be released on bail, it corrodes the very fabric of the orderly society and the women will be left in an unsecured situation. The case has been registered for an unprecedented offence which can never be dreamt of when the victim girl was raped by more than one person including the petitioner on 20.01.2024 and 21.01.2024 and the videography was also done from the mobile of two of such accused including the petitioner. The said mobile was seized and corroborative of the video having captured and stored in the device which also forms a part of the seizure to be used as an evidence at the time of trial. It is a repeated rape of a lady having mental disability since she remained in the house alone as her father for his livelihood, remained absent in the house. She has lost her mother which is corroborated from her statement before the Magistrate. Such a victim cannot fall prey to such persons for commission of such heinous crimes and it would not percolate a sense in the society if such person is released on bail.
4. Accordingly, the prayer for bail is **rejected**.
5. The application being **CRM (DB) 374 of 2024** is **dismissed**.

(Harish Tandon, J)

(Apurba Sinha Ray, J)

