

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

09.01.2024
JPD 2
Sws.M
ct.1

C.R.M. (DB) 716 of 2023

In Re:- **An application for bail under Section 439 of the
Code of Criminal Procedure 1972**

Allowed

In the matter of : **Santosh Sharma**

..... Petitioner

Mr. Janardan Periwal
Mr. Rajesh Kumar Sharma
Mr. Bikki Sharma

...for the Petitioner

Mr. Aditi Sankar Chakraborty, Ld. APP
Mr. Nilay Chakraborty
Mr. Tapan Bhattacharjee

...for the State

Heard Mr. Janardan Periwal, learned counsel for the petitioner, Mr. Nilay Chakraborty, learned counsel for the State-respondents.

This application has been filed under Section 439 Cr.P.C. praying for bail in connection with Bhaktinagar Police Station Case No. 1056/2023 dated 28.11.2023 under Sections 448/376/385/506 of I.P.C. corresponding to G.R. Case No. 6159 of 2023, pending before the Chief Judicial Magistrate at Jalpaiguri, District – Jalpaiguri.

The victim girl is the defacto complainant who lodged the First Information Report on 28.11.2023 with respect to the alleged incident of rape on 01.10.2023 and snatching Rs.30,000/- by the accused. Thus, the FIR was lodged after

about two months of the alleged incident. The accused/petitioner was arrested on 28.11.2023. Medical examination of the victim girl was conducted on 29.11.2023. The accused/petitioner applied for bail which was rejected by the Chief Judicial Magistrate by order dated 13.12.2023. Now the petitioner has filed the present petition under Section 439 Cr.P.C.

We have carefully considered the submissions of learned counsels for the parties and perused the records of this petition and the case diary as produced by the learned State Advocate.

As per FIR, the victim girl developed some friendship with the accused/petitioner since 19.09.2023 and on 01.10.2023 the accused/petitioner entered inside victim girl's house and forcefully raped her and took Rs.30,000/- subsequently on insistence he returned Rs.18,000/- after few days but did not return rest of the money and when she insisted for returning the rest of the money, the accused/petitioner threatened her. Consequently she lodged the above-noted FIR on 28.11.2023. As per medical report dated 29.11.2023 regarding medical examination of the victim girl, no evidence of sexual/physical violence on her body was found. From the evidence collected and contained in the Case Diary, it prima facie appears that the victim girl and the accused/petitioner were on very comfortable terms till 20.10.2023. From reading of the FIR and the evidence

contained in the CD it prima facie appears that there arose some money dispute between the victim girl and the accused petitioner. The victim girl is aged about 29 years and the accused/petitioner is aged about 24 years.

Prima facie, on consideration of the facts and circumstance of the case, the Case diary, the FIR and the Statements of the victim girl recorded under Section 164 Cr.P.C., we find it a fit case to enlarge the petitioner on bail.

In view of the aforesaid, the petitioner/accused, **Santosh Sharma** is enlarged on bail on furnishing a personal bond and 2 sureties of Rs.10,000/- each to the satisfaction of the concerned Court, subject to the following conditions:-

- (i) The petitioner shall not in any way influence the witnesses or try to delay the conclusion of trial.
- (ii) The petitioner shall remain personally present before the learned Trial Court on each day when witnesses are produced for examination and shall not seek any adjournment on such date.
- (iii) The petitioner shall not misuse liberty of bail in any way.
- (iv) The petitioner shall remain personally present for a statement under Section 313 Cr.P.C.
- (v) At least one surety offered by the petitioner as aforesaid, shall be a local resident.
- (vi) The petitioner shall not leave India without leave of the Court.

On furnishing of the personal bond and the surety by the petitioner as aforesaid, the petitioner shall be released on bail forthwith.

The application being **CRM (DB) 716 of 2023** is **disposed of.**

It is made clear that any observations made in the body of this order are merely for the purpose of grant of bail and shall not influence the parties in any event.

Urgent certified copy of this order, if applied for, be supplied to the learned counsel for the respective parties.

(Rai Chattopadhyay, J.)

(Surya Prakash Kesarwani, J.)