

10.02.2025
tkm/ct 28
sl no. 77

C.R.A.N 2 of 2024
in
C.R.A. (DB) 172 of 2023

In Re : An application under section 389 of the Code of Criminal Procedure.

And

In Re : Souvagya Mondal @ Saubhagya Mondalappellant

Mr. Soubhik Mitter
Mr. Bibashan Bhattacharya
Mr. Liton Mitra
Mr. Amanul Islam
Mr. Sourav Mukherjee
..... For the appellant

Mr. Kunal Ganguly
..... For the State

1. Appellant contends allegation of forcible rape is out and out false. There is inordinate delay of seven months in lodging FIR. He was on bail during trial and did not misuse his liberty. He prays for suspension of sentence.
2. Learned lawyer for the State submits appellant had entered the house of the victim and forcibly raped her. PW2, her son corroborates her mother. It is also contended victim was residing away from her residence due to threats.
3. In spite of service nobody appears for the victim.
4. We have considered the evidence on record. PW1 contends on 28.7.2010 she had gone to bathroom to wash herself. At that time appellant accosted her and committed rape on her. She shouted out for help and her children came to the spot. PW2 corroborates her mother and contends he saw the appellant commit rape. Appellant fled away from the spot.

Notwithstanding the violent attack, PW 1 and her children kept quiet for seven months. Thereafter FIR came to be lodged. In court PW1 claimed she had reported the matter to Shaktipur beat house and had been taken to Shaktipur hospital. No medical report with regard to her treatment at Shaktipur hospital is placed on record. Though she claimed she had been threatened by the appellant and was residing elsewhere the investigating officer does not corroborate her version. Credibility of the allegation of forcible rape in the backdrop of inordinate delay in lodging FIR and other attending circumstances needs to be considered during hearing of the appeal. Appellant has made out an arguable case. He has been sentenced to term imprisonment. He was on bail during trial.

5. Under such circumstances, we are inclined to suspend the sentence of the appellant and grant bail to him.
6. Accordingly, we direct appellant shall be released on bail upon furnishing a bond of Rs. 20,000/- with two sureties of like amount each to the satisfaction of the learned CJM, Murshidabad at Berhampore on condition that the appellant shall report to the said magistrate once in a month till the disposal of the appeal.
7. Petitioner shall not enter the jurisdiction of Reginagar P.S where the victim resides until further orders.
8. In the event the appellant fails to do so, the said court shall forthwith intimate such fact to this court and the

department shall place the matter before the appropriate Bench for necessary order in accordance with law.

9. CRAN 2 of 2024 is disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)