

CMC 618/2022

Present:- Smt Leena Goldar
Additional Sessions Judge, Basirhat

03/11.11.2022

This is an application u/s 439 of the Cr.P.C filed on behalf of accused/petitioner Nabab Sardar in connection with Basirhat P.S. Case No. 653/2022 vide GR 4299/22 u/s 417/376/313/323/506 IPC , is taken up for hearing.

At the very outset, Learned Advocate for the accused/petitioner submits before this Court that no such application u/s 438 or 439 Cr.P.C is either pending and/or disposed of in the negative before any higher forum .

Ld Advocate for the present accused/petitioner submits that the allegation against the accused is false. The V.G/de facto complainant is a married lady and is of questionable character and her husband today by filing affidavit has submitted that at the time of the alleged incident V.G was with him and nothing of alleged fact could happen. Thus, he prays for releasing the accused on bail.

Ld. PP in charge referring to the injury reports submits that the allegation may be doubtful and he then leaves the matter to the discretion of the Court.

Perused the materials available in the LCR and the CD.

This is a case u/s 313/323/506/417/376 IPC. The V.G herself in her statement u/s 164 Cr.P.C has stated that her husband had relation with other lady and so since 17 years back she is residing separately. The defence raises the question about the character of the V.G but any sort of character of V.G does not permit any person to rape her against her will. The investigation is still in progress.

I have considered the medical documents and the statement of the witnesses u/s 161 Cr.P.C and the seized articles which were recovered after P.C and considering all there I am of the view that when there is enough materials in the C.D then at this stage of investigation the accused cannot be released on bail.

Hence, prayer for bail of the accused is considered and rejected.

LCR along with a copy of order be sent to the Ld Court below at once. CD be returned also . The CrI Misc case is thus disposed of.

Dictated & corrected by me

Addl. Sessions Judge,Basirhat

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