

C.M.C. 621/2022

Order no. 2
Dated, 04.11.2022

The Criminal Misc. Case filed u/s 439 of Cr.P.C. at the instance of accused Tarikul Midder who is in custody in connection with Basirhat P.S. Case no. 1320/20 u/s 498A/406/34 of IPC adding sec. 376D of IPC is taken up for hearing along with L.C.R. and C.D.

Heard Ld. Advocate for the accused as well as the Ld. P.P. in charge. Perused the materials on record as well as C.D.

The application u/s 439 of Cr.P.C. states that no similar application is filed pending or rejected in the Hon'ble High Court or any othr court.

It is submitted that the principal accused has already been enlarged on bail and the present accused who is the brother of the principal accused is in custody for the last 14 days. It is stated that the accused is innocent and has been falsely implicated in this case.

The Ld. P.P. in charge draws my attention to the allegation u/s 376 of IPC as made in the FIR. The victim girl made similar allegation in the statement u/s 164 of Cr.P.C. However, from the medicolegal examination of the victim, the allegation of rape could not be confirmed pending forensic examination. The complaint was lodged long after the alleged date of such incident. The husband Abdulla Midder was enlarged on bail of 07.06.2022, The present accused is in custody since 21.10.2022.

Since the principal accused is already on bail, I do not think that further detention of present accused Tarikul Midder is necessary at this stage. Accordingly, bail prayer is allowed. The accused Tarikul Midder may find bail of Rs.5,000/- with two registered sureties of Rs.2,500/- each, subject to the satisfaction of the Ld. A.C.J.M. Basirhat.

Return C.D. and L.C.R.

The Criminal Misc. Cast is thus disposed of.

D/C

Addl. Sessions Judge,
Basirhat, North 24 Parganas.
(incharge)

