

Party Name : SANKAR MANDAL @ RAJU Vs THE STATE OF TRIPURA

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THE HONBLE MR JUSTICE U. B. SAHA

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The instant bail application is filed under Section 439 CrPC by the accused-petitioner Sri Sankar Mandal @ Raju for granting him bail in connection with Kakraban PS Case No. 08/2014 under Sections 367/376/326/307 IPC as he is in custody for about 83 days on the basis of a complaint lodged by one Smt. Shila Saha against one Sri Biswajit Bhowmik, who forcibly took the wife of the accused-petitioner to a lonely place of jungle by pressing her mouth and committed rape on her. Ms. Roy, learned counsel for the petitioner while urging for bail would contend that even though the accused-petitioner is not FIR named and also not implicated by the victim, who is his wife, in her statement recorded under Section 164(5) CrPC, then also he was arrested by the police and detained in custody. She further submits that the victim -- wife of the accused-petitioner, in her statement under Section 164(5) CrPC only implicated one Biswajit Bhowmik and not the present accused-petitioner. Thus, it would be proper to grant him bail as prayed for. Mr. Ghosh while producing the case diary submits that though the victim in her statement recorded under Section 164(5) CrPC did not implicate her husband, i.e. the accused-petitioner herein, but there are materials against the accused petitioner. This Court has gone through the statements of the witnesses recorded under Section 161 CrPc as available in the Case Dairy including the statement of the victim-wife of the accused-petitioner recorded under Section 164(5) CrPC. It appears from the Case Diary that some of the witnesses disclosed the name of the accused-petitioner in their statements but the victim in her statement under Section 164(5) CrPC did not implicate the accused-petitioner, rather she said that the accused-petitioner came and seeing her he started crying. As the victim did not implicate her husband, the accused-petitioner, for the offence under sections 367/376/326/307 IPC, it would not be proper for the Court to reject the prayer for bail, as prayed for. Accordingly, the accused-petitioner is allowed to go on bail on furnishing a bail bond of Rs. 10,000/- with two local sureties each of the like amount to the satisfaction of the learned CJM, South Tripura, Udaipur on further condition that he shall appear before the learned CJM, South Tripura, Udaipur as and when required and shall also face the trial as the charge sheet has already been filed. With the aforesaid order, the instant bail application is allowed.