

26.04.2022
Sl. 46
Court No.29
sourav
(Rejected)

C.R.M. (A) 1903 of 2022

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Dhantala** Police Station Case No. **544** of **2021** dated **26.11.2021** under Sections **376D** of the Indian Penal Code.

And

In the matter of: **Bibek Mallick @ Bibekananda & Ors.**

....petitioners.

Mr. Snehansu Majumder

...for the petitioners.

Mr. Sudip Kumar

...for the State.

Petitioners pray for anticipatory bail.

Learned advocate appearing for the petitioners submits that there was a delay of 46 days in the lodgment of the First Information Report. The victim refused to undergo medical tests. The petitioners were falsely implicated. One of the co-accused was enlarged on bail by this Hon'ble Court.

Learned advocate appearing for the State draws the attention of the Court to the statement of the victim recorded under Section 164 of the Criminal Procedure Code.

The allegation is of gang rape. The victim narrates the incident in her statement recorded under Section 164 of the Criminal Procedure Code. The co-accused who was enlarged on bail was on the basis of such co-accused not being identified in the Test Identification Parade by the victim.

The petitioners are yet to be taken into custody and undergo the Test Identification Parade.

The petitioners, therefore, cannot claim parity with that of the co-accused who was granted bail.

There are materials in the case diary implicating the petitioners.

In such circumstances, we are unable to grant anticipatory bail to the petitioners.

Accordingly, the prayer for anticipatory bail of the petitioners is rejected.

C.R.M. (A) 1903 of 2022 is, thus disposed of.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)

