

29.07.2022

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sdas  
rejected

C.R.M.(DB) No. 2532 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Hogalberia Police Station Case No. 58 of 2022 dated 21.02.2022 under Section 376D of the Indian Penal Code and Section 6 of the POCSO Act.

In Re : Bhim Mal & Ors. .... petitioners

Md. Sabir Ahmed  
Mr. Abdul Aziz Mondal  
... for the petitioners

Ms. Anasuya Sinha  
Mr. Pinak Kumar Mitra  
... for the State

Learned Counsel appearing for the petitioners submits that they are in custody for 155 days. It is also submitted that they are not named in the F.I.R. Their names also do not transpire in the history of assault noted in the medical papers. No injury was found in the private parts of the victim.

Learned Counsel appearing for the State opposes the prayer for bail and submits that the victim had been forcibly taken away by one Bikram Sardar @ Mal. Thereafter said Bikram Sardar and others including petitioners ravished her. When she gained her consciousness she saw presence of the co-accuseds Bikram Sardar and one Tapash Sardar. As a result their names were recorded in the F.I.R. Subsequently in her statement recorded under Section 164 of the Code of Criminal Procedure names of the petitioners have transpired.

Complicity of the petitioners is to be seen in the light of the statement of the victim girl recorded under Section 164 of the Code of Criminal Procedure. She had been overpowered by the accused persons and, therefore, absence of injury in her private parties cannot be ground to discredit the allegation.

Under such circumstances and in view of gravity of the offence, we are not inclined in granting bail to the petitioners at this stage.

The application for bail is, thus, rejected.

**(Ananya Bandyopadhyay, J.)**

**(Joymalya Bagchi, J.)**