

03.02.2023

Serial no. 09

[Dd]

(Anticipatory bail)

(Rejected)

CRM (A) 463 of 2023

In re : An Application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure in connection with **Balurghat** Police Station Case No. **05** of **2023** dated **02.01.2023** under Sections **376/506** of the Indian Penal Code.

-And-

In the matter of : **Shyamal Mahara**

... ..**Petitioner**

Mr. Kaushik Chowdhury,
Ms. Busra Khatun, Advocates
... .. For the Petitioner

Mr. Pravas Bhattacharya,
Mr. Pratick Bose, Advocate
... ...For the State

The police complaint is one of rape.

The defence is one of alibi. There is also a claim of delay in the lodgment of the First Information Report.

It is claimed on behalf of the petitioner that, the petitioner was assaulted on December 27, 2022 at 5:30 PM and he was, thereafter, admitted at the hospital on such date to be discharged the next date.

There is a statement recorded under Section 164 of the Criminal Procedure Code of the victim who claims that the petitioner raped her at around 6 P.M. on December 27, 2022.

The petitioner was admitted to the hospital on December 27, 2022 at 8:28 P.M. He was discharged on December 28, 2022. Thereafter, apparently, the petitioner lodged a complaint on December 28, 2022 at 1:05 P.M.

Complicity of the petitioner in the incident cannot be overlooked. The defence of alibi, at this stage, apparently is not convincing.

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

Prayer for anticipatory bail of the petitioner is **rejected**.

CRM (A) 463 of 2023 is dismissed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)