

31.03.2023

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rejected

C.R.M. (DB) No. 1282 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Daspur Police Station Case No. 438 of 2022 dated 27.09.2022 under Sections 341/376DA/506/34 of the Indian Penal Code and Section 6 of the POCSO Act.

And

In Re : Saheb Senapati petitioner

Ms. Madhurai Sinha

... for the petitioner

Ms. Faria Hossain

Mr. Anand Keshari

... for the State

Learned Counsel for the petitioner submits there was a love affair between the parties. Petitioner has not been named in the statement of the victim recorded under Section 161 of the Code of Criminal Procedure. Co-accused Saroj Baxi @ Kusha @ Sawraj Boxi has been enlarged on bail. He prays for bail.

Learned Counsel for the State opposes the prayer for bail.

We have considered the materials on record. Statement of the victim recorded under Section 161 of the Code of Criminal Procedure shows petitioner had ravished her. His name has transpired from the medical papers. Absence of names of the miscreants requires to be assessed in the light of other evidence on record. Petitioner is the principal offender and cannot claim parity with co-accused who, at its height, is an accomplice.

Under such circumstances, we are not inclined to grant bail to the petitioner.

The application for bail is, thus, rejected.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)