

25.07.2023

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rejected

C.R.M. (DB) No. 2950 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Ausgram Police Station Case No. 74 of 2023 dated 02.03.2023 under Sections 323/379/411/376(D) of the Indian Penal Code.

And

In Re : Mangal Hembram @ Mongal Hembram petitioner

Mr. Uday Sankar Chattopadhyay
Ms. Rajashree Tah
Ms. Trisha Rakshit

... for the petitioner

Md. Anwar Hossain
Ms. Sreyashee Biswas

... for the State

Learned Counsel for the petitioner submits victim failed to name the miscreants when she was examined under Section 161 of the Code of Criminal Procedure. She also failed to identify the petitioner during test identification parade. He prays for bail.

Learned Counsel for the State opposes the prayer for bail and submits victim was severely injured and in a precarious condition when her statement was recorded by police. Subsequently in her statement under Section 164 of the Code of Criminal Procedure she has named the petitioner.

We have considered the materials on record. This is a case of gruesome gang rape. Victim was raped by four persons and was recovered in a bleeding condition. Immediately thereafter her statement was taken. Hence, she was unable to give the names of the miscreants. Subsequently she has named

the petitioner as one of the miscreants in her statement before the learned Magistrate. In view of the fact that identity of the petitioner had been disclosed before the learned Magistrate evidentiary value of test identification parade loses significance. Under such circumstances and in view of gravity of the offence we are not inclined to grant bail to the petitioner.

The application for bail is, thus, rejected.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)