

04.10.2023
Sl. No.21
akd
[Rejected]

C. R. M. (DB) 3642 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 30.08.2023 in connection with Dantan Police Station Case No.190 of 2022 dated 21.05.2022 under Sections 341/363/376DA/379/411/506/34 of the Indian Penal Code read with Section 6 of the POCSO Act.

And

In Re: ***Sukumar Tudu @ Tima***

... .. Petitioner

Ms. Minoti Gomes

... .. for the petitioner

Ms. Zareen N. Khan

Md. Kutubuddin

... .. for the State

1. It is submitted on behalf of the petitioner that he has not been identified in Test Identification Parade. Victim has not been examined in court as yet. Accordingly, he renews his prayer for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits petitioner was identified as the person who was present along with co-accused who had raped the victim.
3. We have considered the materials on record. In our earlier order dated 22.09.2022 passed in CRM (DB) 3210 of 2022 it has been incorrectly recorded as victim failed to identify the petitioner in course of Test Identification Parade. The said statement shall be read as victim did not identify the petitioner as one of her rapists. Petitioner is facing a charge of gang rape. Act of rape is not a *sine qua non* to prove the offence. In view of the aforesaid materials on record and gravity of the offence, we are not inclined to grant bail to the petitioner at this stage.
4. The application for bail is thus rejected.

5. Trial court is directed to expedite the trial and conclude the same at an early date.
6. Parties shall communicate a copy of this order to the trial court for due compliance.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)