

08.02.2024
Sl. No.23
akd
[Rejected]

C. R. M. (DB) 213 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 16.01.2024 in connection with Chanchal Police Station Case No.96 of 2022 dated 27.01.2022 under Sections 341/376D of the Indian Penal Code. (G.R. Case No.217 of 2022)

And

In Re: ***Utpal Das***

... .. Petitioner

Mr. Dipanjan Dutt
Mr. Surojit Saha

... .. for the petitioner

Mr. Soumik Ganguli

... .. for the State

1. It is submitted on behalf of the petitioner that the victim had not identified him in course of Test Identification Parade examination. Accordingly, he renews his prayer for bail.
2. Learned Advocate for the State opposes the prayer for bail.
3. We have considered the materials on record. Statement of the victim recorded under Section 164 of the Code of Criminal Procedure shows she was raped by one Nema and an unknown accused. Identification during Test Identification Parade examination is not substantive evidence. Victim is yet to be examined. Delay in the matter is due to abscondence of co-accused. Under such circumstances and in view of 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. Learned Magistrate is directed to take necessary steps to ensure attendance of the absconding accused and if his attendance cannot be secured inspite of exhaustion of all processes, to declare him as

proclaimed offender and proceed to the next stage of trial against the petitioner.

6. Parties shall communicate a copy of this order to the trial court for due compliance.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)