

Ref. Special Case No.19 of 2024
Mallarpur P.S Case No.28 of 2024 dated 07-02-2024.
Under Sections 363/376(3) of the IPC read with section 6 of POCSO Act

Order No.04
27-06-2024

Received case record from the Court of the Ld.ACJM, Rampurhat after the same has been sent to this court pursuant to section 376(3) of the IPC read with section 6 of POCSO Act has been added against the accused person.

Perused the case record, including the FIR, the letter of complaint, the forwarding report, the prayer for police custody arrest-cum-inspection memo., The accused Ramesh Ghosh is taken into custody.

Thereafter, a bail petition is filed on behalf of the defence, on the grounds stated therein.

The I.O. S.I Purnendu Roy is present along with the CD and files a petition, duly forwarded by the SDPO, Rampurhat for seven (07) days PC of accused Ramesh Ghosh, for verifying his statement and for causing custodial interrogation, in order to ascertain the motive behind the alleged crime.

Heard the Ld. Counsel for the prosecution, the Ld. Defence counsel and the I.O in person.

On careful perusal of the C.D and other materials on record and after giving patient hearing of all concerned, this court is of the opinion that the victim is a minor who was purportedly in custody of the accused person for a significant length of time. Even if it is deemed that the victim had consented to co-habitation with the accused person, the law is apposite that consent of a minor is no consent. Thus, considering the early stage of investigation and the nature of the offence, the bail prayer is rejected.

So far as the prayer for 07 (seven) days police remand of the accused person is concerned, I opine that there is merit in such prayer, since the same would facilitate the I.O to cause custodial interrogation of the accused person for the purpose of investigation of this case. Further, police custody of the accused person may also come in aid of the I.O to cause recovery of Alamat. Having said that there is absolutely no basis for seven days police custody of the accused person.

Considering all such facts and circumstances, I opine that the accused person be remanded to P.C for two (02) days.

I.O. is directed to follow the guidelines of the Hon'ble Supreme Court in different cases including the principles laid down in D.K. Basu Case and not subject the accused person to torture during this period. During this period of P.C, the I.O is directed to cause production of the accused before the doctor on each day, as per guide lines of Hon'ble Supreme Court. He is further directed not to take any coercive step or to apply any type of torture upon the accused during P.C. period. Thus the prayer of I.O. is partly allowed. The I.O. is directed to produce the accused on 29-06-2024 before this court. The I.O is further directed to remain present on the date fixed with C.D on the date fixed. In the mean time, the victim girl, who has been produced before this court be sent to the CWC.

Fix 29-06-2024 for production of the accused person.

Return C.D and call for the same on the date fixed.

Let a copy of this order be sent to the I.O of this case and Hazat In-charge of Rampurhat Court for information and taking necessary action.

(Dictated & corrected by me)

Sd/- S.R.Chowdhury
Judge, Special Court (POCSO)
Rampurhat, Birbhum
J.O Code No. WB00885

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