

Special (POCSO) Case No.-01/2021

Order No.36 dt.13/07/2022

The accused Bishal Ruidas and Roshan Paswan are produced from the correctional home. The accused on C/B Md. Tarik is present by filing hazira.

No witness is present.

It appears that the prosecution has not taken any steps as per rule 96(1) of the Criminal Rules and Orders for issuance of summons to the witness.

An application for bail is filed and moved on behalf of the accused Roshan Paswan.

Issue notice on the complainant as per section 439(1A) of the Cr.P.C.

The application filed on 22/06/2022 on behalf of the accused Bishal Ruidas under section 9(2) of the Juvenile Justice (Care and Protection of Children) Act is taken up for hearing.

Heard the Learned Advocate for the accused and the Learned Special PP.

The Learned Advocate for the accused submits that as per the birth certificate he was child at the time of commission of the alleged offence. On the previous occasion the document could not be produced before the court.

The Learned Special PP opposes the application and submits that the accused previously raised the plea of juvenility and this court made inquiry and came to the finding that he was not a child at the relevant time of the commission of the offence.

On perusal of the record it appears that the accused Bishal Ruidas took the plea that he was a child at the relevant time of the commission of the alleged offence. This court made inquiry and vide order no.1 dt.11/01/2021 held that he was not a child on the date of commission of the alleged offence. The said order remains unchallenged. The learned Advocate for the accused fails to cite any authority for the proposition that a special court under the POCSO Act can review its own order when fresh materials are furnished and come to a different finding.

In the circumstances, the application is rejected.

The accused persons are remanded to JC till next date.

To 22/08/2022 for further evidence, appearance of the accused on C/B and production of the other co-accused persons from the correctional home. Issue summons to the witnesses as per requisition of the Learned Special PP.

To 21/07/2022 for hearing the bail petition.

D/c by me

Sd/-

Judge, Special Court (POCSO Act)
-cum-ASJ, 1st Court, Durgapur
J.O. Code No.WB00681

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