

**Special Case No.04 of 2021**

CNR No.-WBBK090000872021

**State Vs. Nayan Garai**

In connection with Sarenga P.S. Case No. 25 of 2021 dated 23.05.2021 U/ss 376/511 of the I.P.C and U/s 10 of POCSO Act.

**Order No.50**

**04.10.2024**

Today is fixed for hearing of the petition dated 01.10.2024 praying for bail of the accused Nayan Garai.

Ld. Advocate for the accused moves the instant petition.

Ld. Special P.P. is present before the Court.

It is submitted that no prayer for bail of the accused is pending before the Hon'ble Court nor any application for bail of this accused was rejected by Hon'ble Court or any other higher forum.

It is submitted by the Learned Advocate for the accused that the accused is in custody since 23.05.2021 and sixteen (16) witnesses have been examined out of seventeen(17) charge-sheeted witnesses by this Court.

Learned Advocate advances that there is no convincing incriminating materials against the accused and the accused will not flee from justice.

It is further submitted that the accused did not prefer any application praying for bail U/s 439 of the Cr.P.C prior to this application.

Learned Advocate submits that there are four(4) children of the accused and out of those four(4), two(2) are daughters and two(2) are minor sons and they have been living in the residence without their father and mother.

Learned Advocate eloquently submits that due to the absence of the parents all the four(4) children of the accused have been passing very painful days. They are being deprived of the association of the parents and at the same time they are not getting proper food in the residence and there is none to look after them. The academic activity of the children have been badly damaged and it is not possible for them to continue their education due to the painful absence of the parents in the residence.

All the four(4) children of the accused are present before the Court and they are submitting before the Court in weeping condition that considering the miserable aspects of their lives in absence of their parents(mother is no more), their father should be enlarged on bail in any term and condition as per discretion of the Court.

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Learned Advocate emphatically advances that previously no active prayer for bail of the accused was preferred and after this long period the accused has been praying for bail.

Learned Advocate assures the Court that considering the future lives of the children, the accused should be enlarged on bail and in that case, the accused will abide by the terms and conditions in letter and spirit which may be imposed by this Court.

On the other hand, Learned Special P.P submits that the allegation against the accused is serious and it is fact that no prayer for bail for the accused was moved in an effective way.

Learned Special P.P advances that most of the witnesses are already examined but it is fact that there is the long detention of the accused. It is also admitted that the children of the accused are being deprived of the company of their parents and they have been living a miserable life since long though the Learned Special P.P raises objection against the prayer for bail of the accused.

On perusal of the record, it is seen that there are some incriminating materials against the accused but it is not clear whether those incriminating materials will go actually against the accused or not and it is the subject matter of the final disposal of the case.

It is very painful that all the four(4) children most of whom are minor are present before the Court with the folded hands praying for bail of their father. The mother of the children is no more and they are passing their very painful days in the residence in long absence of their both the parents. It is also the fact that the academic activities of the sons and daughter of the accused are getting seriously damaged and they have also been suffering from the acute financial stringencies. As per the submission of the respective parties, the situation is very green and the lives of the children of the accused have become miserable.

Therefore, in view of the existing facts and circumstances of the case, materials in the record, submission of the respective parties, presence of the four(4) children of the accused before the Court with folded hands for bail of their father who has been languishing in custody since the date of his arrest i.e. 23.05.2021, present and future lives of the children of the accused, undertaking of the Learned Advocate appearing for the accused that the accused will not flee from justice, undertaking that he will abide by any term and condition which may be imposed by this Court and ultimately taking into account the interest of justice to the parties in widest sense of the term, the accused Nayan Garai is enlarged on an interim bail of Rs.5,000/- with two(2) registered sureties of Rs.2,500/- each subject to the satisfaction of the Learned A.C.J.M., Khatra **till 07.11.2024.**

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The accused shall be under an obligation to ensure his presence before the Court on each date to be fixed unless he is prevented by sufficient cause(in view of the Court).

The accused shall also ensure that he will resist himself from creating any disturbance / unpeaceful situation whatsoever in the residence with his four(4) children.

The accused is directed to be present before the Court with all the four(4) children before the Court on the date fixed.

Any deviation from the above condition will invite the cancellation of the above bail enlarged to the accused.

The instant petition for bail dated 01.10.2024 is accordingly disposed of.

To date for appearance and evidence.

Dictated & Corrected by

Sd/- D. K. Das  
A.S.J  
Khatra, Bankura

Sd/- D. K. Das  
Additional Sessions Judge,  
Khatra, Dist.- Bankura  
J.O. Code WB00638