

Special Case 07/2023
CNR no-WBBK090001652023

**In connection with Hirbandh P.S. Case No. 35 of 2023 dated 10.05.2023
u/s 376(2)(n) of IPC & section 6 of POCSO Act.**

Order No. 21
Dated 11.08.2023

Today is the date fixed for further hearing of the bail petition dated 04.08.2023 filed on behalf of the accused person namely Narayan Singh Sardar.

Ld. Advocate for the accused person is present.

Ld. Special Public Prosecutor of this case namely Sri Jayanta Patra is present.

Ld. Advocate for the victim and de facto complainant is present.

Ld. Advocate for the said accused person has submitted that no any bail petition is pending or rejected by any higher Court in respect of this accused person in this case, and affidavit is filed in that respect. Ld. Special Public Prosecutor of this case has conceded the said submissions of the Ld. Advocate for the accused person.

Ld. Advocate for the accused person has submitted that this accused person is in custody since 11.05.2023, and in this case victim has been examined. He has further submitted that, in this case victim has not supported the prosecution case. He has further submitted that, at the time of alleged incident victim was major and the relation between the victim and accused person was out of the love affairs, that was deposed by the victim in her deposition before this court. He has further submitted that accused person is ready to marry the victim as accused person and victim both are major and in that respect accused person has also filed an undertaking on 10.08.2023. He prays for enlarging this accused person on bail on any conditions.

Ld. Special Public Prosecutor of this case has vehemently opposed the bail prayer of this accused person and submitted that the allegations against this accused person are very serious. He prays for rejecting the bail prayer of this accused person.

Ld. Advocate for the victim and de facto complainant has submitted that he does not have any objection, if this accused person be enlarged on bail and in that respect victim has filed one affidavit on 10.08.2023. He has further submitted that the victim is ready to marry the accused person.

I have heard the submissions of the Ld. Advocate for the accused person, Ld. Special Public Prosecutor of this case, Ld. Advocate for the victim and de facto complainant and perused the records including CD. From the records, it is revealed that in this case victim has been examined and she has not supported the prosecution case substantially. From the records, it is revealed that victim has stated before the doctor, who has examined her that her last LMP date was middle of Magh 2023 and before this court victim has deposed that accused person impregnated her on the last of month of Magh 2023. It indicates that, at time of alleged main incident the victim attained the age of majority. From the records, it is revealed that accused

person was about 28 years old at the time of alleged incident. It is also revealed from the records, that relations between the victim and accused person was out of love affairs. It is fact that, there are some allegations against this accused person that he has entered into sexual relation with the victim, when victim was studying in class IX but during deposition victim has deposed that she was in love affairs with the accused person when she was studying in class IX. From the contents of affidavit cum undertaking filed on behalf of accused person and contents of affidavit filed by victim, it is revealed that accused person and victim are eager to marry each other and on last date of hearing victim and accused person confirmed the same in open court voluntarily. From the records, it is revealed that there are no any materials on records indicating that promise to marry was the only reason for entering into sexual relation by the victim with the accused person. With above observations considering the facts and circumstances of this case and considering the materials on records specially not supporting the case of prosecution by the victim substantially in her evidence absence of the exact date , time place of the incident amount to commission of sexual assault upon the victim by the accused person , absence of any material that indicate promise to marry the sole reason for entering into sexual relation by the victim with the accused person and period of custody of the accused person, I am of the view that it will be justified to enlarge this accused person on bail on the following conditions:

1. This accused will not intimidate or influence the victim of this case and any of the witnesses of this case.
2. This accused person will attend each and every proceeding of this case.
3. This accused person will furnish bail bond of sum of Rs. 2000/- with two registered sureties of Rs. 1000/- each to the satisfaction of Ld. A.C.J.M, Khatra.

With the above observation, bail petition dated 04.08.2023 filed on behalf of the accused person is disposed of .

Let CD be returned.

To date (02.09.2023) for production / appearance of accused person and prosecution evidence.

Let the copy of this order be sent to the Ld. A.C.J.M, Khatra for information.

D/C by me.

Judge, Special Court
Khatra, Dist.- Bankura

Judge, Special Court
Khatra, Dist.- Bankura
(Under POCSO Act)
J.O. Code WB01399