

Special Case no. 17 of 2022
CNR no-WBBK090002612022

**In connecting with Indpur PS Case no. 40/2022 dt. 18.05.2022 U/S 363/365 of IPC
& adding Section 6 of POCSO Act.**

Order No. 12
Dated 31.03.2023

Today is the date fixed for further hearing of the bail petition dated 23.03.2023 filed on behalf of the accused person namely Sujit Bauri.

Ld. Advocate for the said accused person is present.

Ld. Special P.P. Sri Jayanta Patra is present.

Ld. Advocate for victim/ de facto complainant is present.

Ld. Advocate for the accused person has submitted that this accused person is in custody since 15.08.2022, and in this case two material witnesses including victim have been examined out of twenty charge-sheet witnesses. He has further submitted that in the recorded statement U/s 164 Cr.P.C of the victim, there is no any allegations against this accused person for commission of the forceful sexual intercourse amount to penetrative sexual assault as alleged by prosecution. He has further submitted that victim deposition before this court in respect of sexual intercourse with the victim is material improvement as in this case statement of victim recorded by police U/s 161 Cr.P.C was subsequent to recording of the statement U/s 164 Cr.P.C of the victim and certainly that creates doubt upon the actual recording statement U/s 161 Cr.P.C of the victim. He has further submitted that at the time of alleged incident the victim was 16+ years old and that is considered as age of maturity. He has further submitted that medical examination reports of the victim do not corroborate the allegations against this accused person for the commission of the offence under section 6 of POCSO Act. He prays for enlarging this accused person on bail on any condition.

Ld. Advocate for de facto complainant / victim has vehemently opposed the bail prayer of the accused person and submitted that there are chances that this accused person will intimidate them and influence the witnesses of this case. He prays for rejecting the bail prayer of this accused person.

Ld. Special P.P. has vehemently opposed the bail prayer of this accused person and submitted that the allegations against this accused person are very serious and only two charge-sheet witnesses including victim examined so far supported the prosecution case substantially, and still eighteen witnesses are about to be examined. He prays for rejecting the bail prayer of this accused person.

I have heard the submissions of the Ld. Advocate for the accused person, Ld. Advocate for de facto complainant/ victim and Ld. Special PP of this case and perused the records including CD. From the records, it is revealed that in this case victim has been examined as PW-1 and she has supported the prosecution case substantially. From the medical examination report of the victim it is revealed that hymen of the victim was found torn. It is fact that there are some material improvement in the statement of victim before this court, in comparison to her statement before the Ld. Magistrate U/s 164 Cr.P.C but that cannot be the sole ground for doubting prosecution case at this stage. Considering the materials on records specially the evidence of PW-1/ victim, medical examination report of the victim and recorded statement U/s 161 Cr.P.C of CSW 8, I am of the view that it will not be justified to enlarge this accused person on bail at this stage, hence the bail petition dated 23.03.2023 filed on behalf of the accused person is rejected, in corollary the accused person is remanded to J/C till next date fixed.

Let CD be returned.

To date (19.04.2023) for production of the accused person and prosecution evidence.

Judge, Special Court
Khatra, Bankura
(Under POCSO Act)
J.O. Code WB01389