

Special Case No. 15 of 2017
CNR no. WBBK090002892017

In connection with Ranibandh P.S. Case no. 30/2017 dated 29.08.2017
U/S 363/366/366A/372/376 of IPC and section 4/6 POCSO Act.

Order No. 137
Dated 17.10.2023

Today is the date fixed for production of the accused persons namely Sailendra Kumar in custody, appearance of the accused persons on court bail, prosecution evidence and further hearing of the bail petition dated 06.10.2023 filed on behalf of the accused person namely Sailendra Kumar.

Accused Sailendra Kumar is produced from Bankura District Correctional Home.

Other two accused persons are absent and represented by their Id. Advocate under section 317 of Cr.P.C.

Ld. Advocate for the accused persons is present.

Ld. Special P.P. of this case is present.

No witnesses are present.

From the records it is revealed that warrant of arrest was issued against CSW 4 namely Pratap Kumar Yadav and CSW 9 doctor Saptarshi Chatterjee.

No execution report is received and only one message is received that order no. 133 dated 25.09.2023 of this court has been communicated S.P. Firozabad. In this circumstances, let reminder be issued to Superintendent of Police, Bankura for execution of warrant of arrest issued against CSW 4 and CSW 9 as this case is pending since 30.08.2017 and Hon'ble High Court directed this court to conclude the trial of this case at the earliest and non appearance of the above two witnesses are main reasons for delaying trial of this case.

Bail petition dated 06.10.2023 filed on behalf of the accused person namely Sailendra Kumar is taken up for hearing.

Ld. Advocate for the accused persons has submitted that this accused person is in custody since 05.09.2017. He has further submitted that in this case 11 witnesses have been examined out of 14 charge-sheet witnesses. He has further submitted that this accused person has been falsely implicated in this case. He prays for enlarging this accused person on bail on any condition.

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

I have heard the submissions of the Ld. Advocate for the accused person and Ld. Special P.P. of this case and perused the records including C.D. From the records it is revealed that in this case there are 14 charge-sheet witnesses out of that 11 witnesses have been examined. From the records it is revealed that in this case CSW 4 and CSW 9 have not been examined and despite issuance of warrant of arrest against those witnesses no any execution report has been received from the Superintendent of Police , Bankura.

From the records specially the evidences of PW-2, PW-6 and recorded statement U/s 164 Cr.P.C of the victim, it is clear that there are serious allegations against this accused person. Considering the seriousness of allegations against this accused person, 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 06.10.2023 filed on behalf of the accused person is rejected in corollary this accused person is remanded to J.C. till the next date fixed.

With the above observations , bail petition dated 06.10.2023 filed on behalf of the accused person namely Sailendra Kumar is disposed of.

Let C.D. be returned.

Ld. Special Public Prosecutor has submitted that he has filed one petition dated 16.06.2022 praying for summoning headmaster of Tripalli High School located at Paschim Mamudpur, Block-Manteswar, Dist- Burdwan, Pin 713426 as witness is still pending , he prays for disposal of the said petition.

The petition dated 16.06.2022 filed on behalf of prosecution is taken up for hearing.

Ld. Special Public Prosecutor has submitted that for proper adjudication of this case examination of the headmaster of Tripalli High School located at Paschim Mamudpur, Block-Manteswar, Dist- Burdwan, Pin 713426 is required, and it is also required to produce the records relating to date of birth of victim of this case. He prays for directing headmaster of Tripalli High School located at Paschim Mamudpur, Block-Manteswar, Dist- Burdwan, Pin 713426 to produce the records relating to date of birth of the victim of this case and also present before this court for proving the age of the victim of this case as that is necessary for proper adjudication of this case.

Ld. Advocate for the accused persons has vehemently opposed the said prayer of the prosecution and submitted that allowing such prayer of prosecution will be amount to giving opportunity to the prosecution to fill up the lacuna. He prays for rejecting the petition dated 16.06.2022 filed by prosecution.

I have heard the submissions of the Ld. Special Public Prosecutor and Ld. Advocate for the accused persons and perused the records. From the records it is revealed that one certificate dated 16.09.2017 has been filed regarding date of birth of the victim issued by Tripalli High School located at Paschim Mamudpur, Block-Manteswar, Dist- Burdwan, Pin 713426, but that has not yet been proved and for proving the same it is essential to examine

the head of Tripalli High School located at Paschim Mamudpur, Block-Manteswar, Dist-Burdwan, Pin 713426 as such evidence is essential for just decision of this case and accused persons will have opportunity to cross examine the said witness. In this circumstances, it will be justified to allow this petition of the prosecution, hence it is allowed.

Let summon be issued to the headmaster of Tripalli High School located at Paschim Mamudpur, Block-Manteswar, Dist- Burdwan, Pin 713426 and also direction be issued to headmaster of Tripalli High School for producing of records relating to age of victim of this case.

Fix 08.12.2023 for E/R of W/A against CSW 4 and CSW 9, production of the accused person and appearance of the accused persons and prosecution evidence.

Fix 15.12.2023 for prosecution of the accused person, appearance of the accused person, prosecution evidence and hearing of one petition dated 16.06.2022 filed by prosecution.

Let copy of this order be sent to the Superintendent of Police, Bankura for compliance.

Dictated and corrected
by me

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