

Spl. Case – 15/17

Order No. 26,
Date- 28.2.18.

3 accused persons namely Kanchani @ Babli Tudu, Apurba Tudu and Sailendra Kumar are produced from J/C.

Bail application has been filed separately on behalf of the aforesaid two accused persons namely Kanchani @ Babli Tudu and Apurba Tudu.

Hd. Ld. Advocate for the accused Sailendra Kumar with reference to the petition for bail filed earlier , when he submitted that there is a clear violation of mandatory provision of Section 161 (3) Cr.P.C. and the entire incident alleged to have been taken up outside the jurisdiction of Khatra Sub-division and that was started to commit from the jurisdiction of Bankura Sadar Sub-division area. The aforesaid accused is in custody for 167 days and there is no chance of commencement of trial immediately. Investigation has already been completed . Accordingly aforesaid accused deserves as order of bail.

Also Hd. Ld. Advocate for the accused person namely Apurba Tudu when he submitted that the aforesaid accused is a student and he has been languishing in jail custody fo 181 days and investigation has already been completed.

Also Hd. Ld. Advocate for the accused namely Kanchani Tudu when he submitted that on the request of the victim girl accused Kanchani Tudu made arrangement for her marriage and there was no case of kidnapping of the v.g. by the said accused.

Ld. P.P. in-charge vehemently opposed the prayer for bail of the accused persons when he submitted that the accused persons hatched up a conspiracy and in consequence of such conspiracy, the victim girl was sold in the state of Uttar Pradesh by the accused persons and wherefrom police recovered her. There are strong materials in the C.D. against all the accused persons. They may abscond if bail is granted.

Perused all the petitions for bail, case record and the C.D.

On perusal of the above that it appears that it is a continuous offence which alleged to have started from the territorial jurisdiction of Ranibandh P.S, which investigated this case. There are strong materials in the C.D. against all accused persons.

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Chance of fleeing away of the accused persons if the bail is granted can not be ruled out . This court is trying it's level best to commence and conclude the trial as early as possible. Consequently the prayer for bail of accused persons namely Kanchani @ Babli Tudu, Apurba Tudu and Sailendra Kumar are hereby considered and rejected.

Thereafter petition filed by Ld. P.P. in-charge on 19.2.18 praying for passing necessary order directing the Investigating Officer to record the another satement of the victim girl by a lady Police Sub-Inspector is taken up for hearing.

Hd. Ld. P.P. in-charge with reference to the aforesaid petition when he submitted that this is a mandatory provision as per Section 24(1) of the Protection of Children from Sexual Offences Act, 2012, which the I.O. omitted to do in course of investigation.

Ld. Advocate for the accused Sailendra Kumar submitted that there is no such scope to direct the I.O. to record the statement of the v.g. by a lady Sub-Inspector particularly when cognizance has already been taken by this Court and Investigating Offier did not find any subsequent further evidence or materials warranting the said recording of the statement of the v.g. Ld. Advocate for other two accused persons also opposed the aforesaid prayer of the prosecution.

Perused the instant petition, case record and the C.D.

On perusal of the above it appears that Investigating Officer after completion of investigation submitted charge-sheet in the instant case on 27.11.17 and thereafter this court has taken cognizance upon the same being the Special Court to try the offence under the POCSO Act. It appears that no further evidence has been collected by the Investigating Officer relating to the incident which necessiates the recording of the statement of the v.g. as prayed for . There is no such prayer either from the Investigating Officer or from the Officer in-charge of the police station for recording of the statement of the v.g. by a woman Police Officer . It is not the case of the prosecution that the Investigating Agency has collected fresh information by which they can exercise the right of further investigation . In this connection it is pertinent to mention here that it is the settled principle of Law that accused can not claim that breach of aforesaid

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provision would viciate the trial. Practically the aforesaid prayer of the prosecution will not come within the ambit of Section 173(8) Cr.P.C. So this court is of clear opinion that the instant petition filed by Ld. P.P. in-charge deserves no merit and the same is liable to be rejected. Accordingly the petition dated 19.2.18 filed by Ld. P.P. in-charge is hereby considered and rejected on contest.

Aforesaid 3 accused persons be remanded to J/C till 13.3.18 .

To date also be fixed for consideration of charge.

D/C by me.
Sd/- Subhasis Ghosh,
A.S.J.

Sd/- Subhasis Ghosh,
Additional Sessions Judge,
And Judge, Special Court under POCSO Act,
Khatra, Bankura.

28.2.18.