

POCSO Case No. 02 of 2024
ST 06 (05) 2024
Pundibari PS Case No. 21/2024 dated 09.01.2024

(COPY OF ORDER)

Order No. 01 Dated 15.05.2024

Accused Fayjar Hossain @ Firoj Islam is produce from J/C.

Rest five accused namely Majida Bibi, Aklima Khatun, Najir Hossain, Safikul Haque and Fajila Bibi are present by filing haziras.

Today is fixed for production, appearance and hearing of bail petition.

Ld. Advocate for the accused and Ld. Special PP are present.

Heard the Ld. Counsel of the party. Perused the materials on record and CD. Considered.

The case is formally opened.

Having gone through the materials on record and considering the submission of the Ld. Counsel of the party, it appears prima facie that a case punishable **U/s 6 POCSO Act read with Section 363/365/366A/376/506/120B/34 IPC** is well established against the principal accused Fayjar Hossain @ Firoj Islam and **u/s 6 / 17 of POCSO Act read with Section 363/365/366A/506/120B/34 IPC** is well established against rest accused viz. **Majida Bibi, Aklima Khatun, Najir Hossain, Safikul Haque and Fajila Bibi** and **Section 328** of IPC against accused **Majida Bibi**.

The content of charge is read over and explained to the accused persons in Bengali to which they pleaded individually not guilty by saying " Ami Nirdosh" and claimed to be tried individually.

Now, bail petition on behalf of accused Fayjar Hossain @ Firoj Islam is taken up for hearing in presence of both sides.

Heard both sides.

Heard Ld. Special PP who opposed the bail and produced CD.

On closure scrutiny of the case record it transpires that notice was given upon the defacto complainant through the Prosecution. Notice returned, the defacto complainant side is represented through private counsel who opposed the prayer for bail.

Be that is it may, though the mischief U/s 29 & 30 of POCSO Act goes against the principal accused and there is no change of circumstances in terms of the principal enunciated by Hon'ble Apex Court in Kalyan Chandra Sarkar Case reported in (2005) 2 SCC 42, to come to a different conclusion, adding premium to forum haunting at the instance of the defence. Bail prayer stands rejected.

Fix **02.07.2024** for evidence of **the VG / CSW No. 5**

Fix **03.07.2024** for evidence of the Defacto complainant / CSW No. 1

Issue process accordingly.

CD be produced on the date fixed.

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In terms of the circulated judgment /direction of the Hon'ble Court in CRR No. 854 of 2011 dated 12.12.2022 vide Hon'ble Court's Notification No. 438-RG dated 21.01.2023, O.C., Pundibari PS, Sadar, Cooch Behar is directed to cause appearance of the witnesses as per schedule and IO to remain present before the Court on the date fixed along with alamat, CD apart from the witnesses and in his/her absence of the IO to produce the witnesses through some competent police officers, on the date fixed positively.

Inform O.C., Pundibari PS, Cooch Behar through Email and G.R.O., Cooch Behar for strict compliance.

Dictd. & Cortd. by me.

Sd/-

Judge, POCSO Court ,
-cum- Addl. District & Sessions Judge,
2nd Court, Cooch Behar

Sd/-

Judge, POCSO Court ,
-cum- Addl. District & Sessions Judge,
2nd Court, Cooch Behar