

## Spl. Case No.02 of 2023

Order No..41

Dated 07.10.2024.

Sole accused Bijay Subba is produced from J/C.

Ld. Special P-P in-charge is present.

Mother of the VG appears and submits that VG is presently working at Thailand and she unable to appear. She further submits that she has no objection if the accused be enlarged on bail.

Bail petition of the accused is taken up for hearing.

Ld. Lawyer for the accused submits that this accused is behind the iron bar since more than 585 days and there is none to look after his ailing mother at home. She further submits that all the public witnesses except the doctor and the IO have already been examined and the trial could not be concluded because of prosecution failure to examine those remaining witnesses since a long time.

Ld. Lawyer by taking me through the cross-examination of the VG as well as evidence of her mother and other Pws also submits that same does not support prosecution's allegation against the accused and prays for bail of the accused on any condition.

On the other hand, the Ld. Spl.PP-in-charge very candidly submits that the bail petition may be allowed but with stringent condition.

Perused the entire materials of the instant case, as available with the CR.

Considered.

CR reveals that the accused is behind the iron bar since 06.03.2023 and he is facing charges for the offence punishable U/S 363/354D/376/506 IPC & Sec. 04 of the POCSO Act 2012 and all the public witnesses including the VG and her mother have already been examined long back. CR further reveals that summons upon the remaining official witnesses have repeatedly been issued but prosecution failed to examine them.

I have meticulously gone through the prosecution's evidence but as law does not permit to analyzed and mentioned about the merit and demerit of the same at the stage of the hearing of the bail petition, So, I refrained myself to specifically mentioned about the same but do consider the same while considering the bail application of the accused.

Having considered the above facts and circumstances; mother of the VG having no objection as well as the repeated observation of the Hon'ble Apex Court that an accused cannot be kept behind the iron bar for unlimited period merely on the ground of magnitude of allegation and his personal liberty shall prevail, as lastly observed in the case of Manish Sisodia, SLP(CRL.)No.8781/ 2024, I am inclined to allow the bail prayer. Thus, the bail prayer of the accused is allowed and he may find bail of Rs.20,000/- with two sureties of Rs. 10,000/- each and on condition to appear on each fixed date without fail, I.d. to J.C till 18.10.2024 subject to the satisfaction to the Ld. ACJM, Kurseong. If on bail, todate for appearance and prosecution's further evidence.

D/c by me

.....  
SD/- Special Judge POCSO  
Kurseong.