

Spl. Case (P) No. 4 of 2018

Order No. 12 dated 04.06.2018

Sole accused person namely Karna Bahadur Subba is produced from J/C today.

Ld. Defence Counsel for the accused and Ld. Associate P.P. for the State are present before this Court.

Today is fixed for production and hearing of the bail application dated 28.05.18 on behalf of the accused/petitioner Karna Bahadur Subba

The record is now taken up for hearing of the bail application and order.

Ld. Lawyer for the petitioner Karna Bahadur Subba submits that the petitioner is totally innocent and has been falsely implicated in this case. He submits that the case of the petitioner is false and fabricated and that he has suffered immensely both physically and mentally due to his prolonged detention in custody. He submits that the petitioner is languishing in Judicial Custody since 21.02.2018. He also submits that the accused is a local resident having his home and hearth at Pabring Tar, Gram Panchyat Kalimpong within the jurisdiction of this Court and that there are no chances of his fleeing from the trial of this case. He also submits that the petitioner is the only earning member of his family who has a wife and three school going children to look after and who have been facing immense financial hardship on account of detention of the petitioner. In the end he prayed fervently for grant of bail of the accused/petitioner under any terms and conditions.

Ld. Lawyer for the State submits that he does not have any objection if the petitioner is enlarged on bail.

Heard both the sides. Perused the bail petition and materials in the case record and in the C.D. Considered.

The instant case has been started on a complaint filed by the father of the victim minor girl aged 10 years to the effect that the victim girl was sexually assaulted and molested by the accused person in the victim's house on 17.2.18 at around 6.30 p.m when the parents of the victim girl were not at home.

Upon perusal of the C.D of this Case it is apparent that investigation of this case has already been completed and charge sheet filed against the accused person u/s 8 of POCSO Act. It is evident from the case record that the petitioner was brought under arrest before this Court on 22.02.2018 and since that date has been languishing in Judicial custody which comes to a detention period of about 104 days. The petitioner has been accused of an offence u/s 8 of POCSO Act for which the maximum punishment given in the statute is of 5 years. On close scrutiny of the C.D it is revealed that the I.O has given an endorsement that during investigation of this case he found that the accused person had a good reputation in the locality and had no criminal antecedents.

Considering the above facts and circumstances, nature of the accusations made against the petitioner, stage of investigation and no objection by the Ld. Lawyer for the State, I am of the opinion that the petitioner deserves to be enlarged on bail at this stage. Hence, I am inclined to grant bail to the petitioner namely Karna Bahadur Subba. The petitioner be released from custody on furnishing bond of Rs. 5,000/- with two sureties of Rs 2,500/- each, **one of which must be a local surety** to the satisfaction of the Ld. C.J.M. Kalimpong subject to the condition that the accused must remain present before this Court on each and every date fixed for this case.

Let a copy of this order be sent to the Ld. C.J.M. Kalimpong for his information and necessary action.

To **18.06.2018** for appearance, if on bail/production of the accused person and for consideration of charge.

Dictd Cortd. by me:

Sd/-

(Nayyar Azam Khan)

Special Court

Additional Sessions Judge,

Kalimpong

Sd/-

(Nayyar Azam Khan)

Special Court

Additional Sessions Judge,

Kalimpong