

Order No. 32

Dated 29.01.2024

Heard the bail application filed by the accused Ashit Rai praying for releasing him on bail in this case in presence of the Ld. advocate for the accused person and the Ld. Special P.P.

Seen the bail application, perused the case record and considered.

It is submitted by the Ld. advocate for the accused person that due to miscommunication, the accused failed to appear before this court as a result of which warrant of arrest was issued against him as such the accused person may be released on bail.

Ld. Special P.P. vehemently opposes the prayer for bail of the accused as the accused was found absconding since after issuance of warrant of arrest against him.

Heard the submissions of the Ld. advocate for the accused person and the Ld. Special P.P., seen the bail application, perused the case record and other materials on record, I find from the case record that the charge was framed against this accused Ashit Rai for the offence u/s 6 of POCSO Act on 24.09.2019. Thereafter the instant case was posted for evidence and during the stage of recording the evidence W/A was issued against this accused Ashit Rai as I found from the order No. 3 dated 23.12.2019 passed by this court. It is also found from the aforesaid order that one time petition was moved by the counsel of the accused stating therein that the accused was missing since 05.11.2019 and for this effect one missing diary was also lodged with the I.C. Kalimpong and the prayer was made seeking time as the Ld. advocate cannot conduct the examination of the witness in his absence. As no exemption application was moved on behalf of the accused and the accused remained absent today as well as the last date of hearing as such W/A was issued against this accused Ashit Rai in view of the order No. 3 dated 23.12.2019.

Therefore, it is evident from the case record that this W/A was pending against this accused Ashit Rai for more than 3 years from the date of issuance of W/A. The accused has misused the liberty of bail and he has also caused delay for concluding the trial of this case as such I am not inclined to release the accused person to be released on bail.

Accordingly, the prayer for bail of the accused Ashit Rai is considered and rejected.

Issue summons upon CSW Nos. 1 & 3 (V.G).

Fix 02.04.2024 for examination of CSW No. 3 (V.G).

Fix 03.04.2024 for examination of CSW No.1.

D&C by me

Sd/-

Judge, Special Court (POCSO)

Kalimpong

Sd/-

Judge, Special Court (POCSO)

Kalimpong