

Spl. Case (P) No.03 of 2018

Order No. 10 dated 18.04.2018:

Sole accused person namely Dhan Kumar Rai 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, receipt of C.D and hearing of the bail application dated 12.04.18 on behalf of the accused/petitioner Dhan Kumar Rai.

C.D is received today. I.O's report is received on 16.04.18 and is kept with the record.

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

Ld. Lawyer for the petitioner Dhan Kumar Rai submits that the petitioner is totally innocent and has been falsely implicated in this case. He submits that the petitioner is languishing in Judicial Custody since 29.03.2018. He submits that the prosecution case is based on baseless and imaginary story and that there is no indication of involvement of the accused/petitioner in the alleged offence. He also submits that the accused is a local resident having his home and hearth at Gitadblilng, Kalimpong and that there are no chances of his fleeing from the trial of this case. In the end he prayed fervently for grant of bail of the accused/petitioner purely on humanitarian grounds 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 victim minor girl herself to the effect that the petitioner had forced her to dance with her in a marriage ceremony and in the process the petitioner had assaulted her and outraged her modesty. It is evident from the case record that the petitioner was brought under arrest before this Court on 29.03.2018 and since that date has been languishing in Judicial custody which comes to a detention period of about 20 days. On perusal of the materials in the C.D it appears that the investigation is completed and the charge sheet has already been filed by the I.O of this case. On perusal of the statement of the victim girl which was recorded by the Ld. Magistrate u/s 164 Cr.P.C it transpires that the victim was assaulted when she had refused to dance with the petitioner in a marriage ceremony. Not much incriminating material against the petitioner is made out from the charge sheet filed in this case excepting that he had tried to assault the victim girl in a public place.

Considering the above facts and circumstances and the gravity of the offence alleged to have been committed by the petitioner, I am of the opinion that the petitioner deserves to be enlarged on bail especially when the investigation of this case is over. Hence, I am inclined to grant bail to the petitioner namely Dhan Kumar Rai. 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 **03.05.2018** for appearance, if on bail/production of the accused person and for copy supply to the accused person.

Return C.D.

Dictd Cortd. by me:

Sd/-

(Nayyar Azam Khan)

Special Court

Additional Sessions Judge,

Kalimpong

Sd/-

(Nayyar Azam Khan)

Special Court

Additional Sessions Judge,

Kalimpong