

Special Case (P) 4 of 2018

Order No. 7, dated 09.04.2018:

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

Today is fixed for production of the accused person, receipt of C.D and hearing of the bail application dated 04.04.18 filed on behalf of the accused person.

Ld. P.P-in-charge and Ld. defence Counsel of the accused person are present.

C.D. is received. Ld. Lawyer for the accused files photo copy of certain documents and some original documents pertaining to the family members of the petitioner. Let it be kept with the record.

The record is now taken up for hearing of the said bail petition and for 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 against the petitioner is totally false and fabricated and that he has suffered immensely both mentally and physically due to his prolonged detention in Custody. He submits that the petitioner is languishing in Judicial Custody since 21.02.18. He also submits that the accused person would not flee and would face trial proving his innocence therein and prayed for grant of bail to the petitioner under any terms and conditions purely on humanitarian grounds that the wife of the petitioner is ill and that the children of the petitioner are small school going children for which reasons the presence of the petitioner at home was very much needed which grounds he agitated by drawing the attention of this Court to the documents filed on this day.

On being asked Ld. Advocate for the petitioner submitted that no application for bail was rejected before the Hon'ble Court and no application for bail has been pending before the Hon'ble High Court in connection with this case in respect of the present accused/petitioner.

Ld. Lawyer for the State submits that he has strong objection to the prayer of the petitioner for grant of his bail as the C.D contains incriminating materials against the petitioner.

Heard both the sides. Perused the materials in the case diary. Considered.

The case record reveals that the instant case has been started on a complaint 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 where he had gone on 17.02.18 at around 6 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 the victim minor girl has also corroborated her case by giving her statement before the Magistrate u/s 164 Cr.P.C. wherein she has levelled the same allegations against the accused person which is also corroborated by the statement u/s 161 Cr.P.C and u/s 164 Cr.P.C before the I.O and Magistrate respectively made by the brother of the victim girl who has himself seen the incident. It is apparent from the C.D. that there are incriminating materials against the accused in the statement of other witnesses recorded u/s 161 Cr.P.C which supports the prosecution story.

Considering the above facts and circumstances, materials in the C.D. and case record, and the gravity of the offence alleged to have been committed by the accused person/petitioner, I am of the opinion that this is not a fit case for grant of bail to the petitioner at this stage. Consequently the prayer for bail of accused Karna Bahadur Subba is hereby considered and **rejected** at this stage.

Return the C.D

To **23.04.2018** for production of the accused person and for I.O's report.

Dictd Cortd. by me

Sd/-

(Nayyar Azam Khan)

Additional Sessions Judge, Kalimpong

Sd/-

(Nayyar Azam Khan)

Additional Sessions Judge, Kalimpong