

POCSO Case No. 05 of 2018

Order No. 10 dated 28.03.2018 :

Accused- Asoke Manna and Nisikanta Maity are produced from J. C.

At this stage, an application for bail has been filed on behalf of both the accused-in-custody.

An affidavit has also been filed on behalf of both the accused persons by Sk.Samim Aktar, Advocate, Haldia Court swearing that no application for bail has been filed before any higher Court on behalf of present accused persons or pending or rejected.

Copy served to the prosecution.

Ld. P.P.-in-charge is present . C/D. is produced.

Ld. Advocate for the accused person is also present.

Bail application is taken up for hearing.

Heard Ld. Advocate for accused persons, who submits that both the accused persons are incustody since 02.02.2018, i.e. for about 53 days ; that they have been falsely implicated in this case ; that the investigation has already taken a shape of maturity and so, they need not be detained in custody further. In the circumstances, he prays for bail on any condition.

Ld. P.P.-in-charge raises strong objection on the point of bail on the ground that both the accused persons are named in FIR and they have been identified by the victim girl during T I P.

Considered. Perused the bail application along with F.I.R., C/D. and materials available on record. This is a case u/sec. 376 D/376 (2)(i)(l) of IPC. and Section 6 & 9 (k) of POCSO Act. Both the accused are named in FIR and they are in custody since 02.02.2018, i.e. for about 53 days. According to FIR, lodged by the mother of the V.G., both the accused persons committed sexual inter-course with the V.G. against her will in the vacant hut of one Tarapada Mondal, but the statement of V.G., recorded u/sec. 164 of Cr. P. C., goes to show that she was raped by one person only in a shop, not by two accused persons in a hut. On the other hand, medical report of the V.G. goes to show that the examining Doctor, who examined the V.G. on the very date of alleged incident of rape at 9.00 p.m., which is after about 9 hours of alleged rape, found no injury mark either on the person or on the private parts of the V.G. There is no development in investigation after 24/02/2018. Moreover, the investigation of this case has already taken a shape of maturity. Considering all these aspects, materials available in C.D. especially the medical report of the V.G. as well as period of detention of these accused persons in custody, I am not inclined to detain them further in custody.

Accordingly, their prayer for bail is allowed.

Accused, namely, Asoke Manna and Nisikanta Maity may find a bail of Rs. 3000/- each with two sureties of Rs. 1500/- each i.d to J.C till 11/04/2018.

If on bail, 03.05.2018 for appearance.

C. D. be returned at once.

Dic. & Corr. by me

Judge (Special Court).

Judge
Special Court(POCSO)
Haldia, Purba Medinipur.
28.03.2018.

