

S. T. (P.O.C.S.O.) 09 (08) / 2023
(C.N.R. - WBHG05-000563-2023)

Present: Smt. Ratna Roy
(J.O. Code : WB00914)

Order No. 31 dtd. 01.04.2025

Accused Saddam Hossain @ Saddam Hossain Mallick is produced from correctional home.

The bail application of the accused which is fixed for hearing today is taken up.

Ld. Special P.P.-in-charge and Ld. Defence Counsel are present.

Defacto complainant is present.

Heard both sides over the bail petition.

Ld. Defence Counsel submitted that the accused was arrested on 12.04.2023 from his place of work at Rajasthan. He was produced before the court on 16.04.2023. Since then the accused is in custody. That the F.I.R. upon which this case has been started was lodged on 04.02.2023. The name of the accused is not mentioned in the F.I.R. After the evidence of the victim girl was over, the accused had gone to the Hon'ble Court for bail. The Hon'ble Court had rejected the bail application and had directed that the trial be concluded within eight months from the next date fixed for recording evidence. As per the direction of the Hon'ble Court the eight months will expire on 14th July 2025. There are 34 witnesses in this case, out of which fourteen witnesses have been examined till date. Still nineteen witnesses are left to be examined. The remaining nineteen witnesses cannot be examined by 14.07.2025. The victim girl had first refused medical examination. C.S.W. No. 8 who has been examined as PW-11 being with the victim girl during the time of the alleged offence is the best witness and the evidence of the victim girl (PW-1) can be corroborated with the evidence of PW-11. There is non-corroboration in the evidence of PW-1 and PW-11. PW-1 had stated that the incident had occurred on 03.02.2023 and the accused had established physical relationship with her during the night but PW-11 had stated that on 02.02.2023 the incident had occurred and that on 02.02.2023 the victim girl, the accused, PW-11 and her boy friend had boarded bus for Digha at 10:00 p.m. / 11:00 p.m. and they had reached Digha at 6 a.m. / 6:30 a.m. In that case the time which PW-1 stated she was raped by the accused they were all traveling by bus to Digha. There is huge contradiction in between the evidence of PW-1 and PW-11 which goes in favour of the accused. Considering the contradiction in the evidence of PW-1 and PW-11 and the detention of the accused, he be granted bail under any condition.

Ld. Special P.P.-in-charge opposed the bail prayer stating that whatever submissions has been made on behalf of the accused are matters of argument and can be taken into consideration at the time of judgment. Already fourteen witnesses have been examined. There is no laches on the part of the prosecution and the time frame given by the Hon'ble Court is not yet over.

Considered submissions of both sides. Perused the materials on the record and C.D. and also the evidences on record.

On perusal of the evidences, I find that there is sufficient allegation against the accused. The submissions as made by the Ld. Advocate on behalf of the accused as regards the contradiction between the evidence of PW-1 and PW-11 are matters that are to be looked into after the conclusion of the trial when the record will be taken up for passing judgment. The time frame as fixed by the Hon'ble Court for conclusion of trial of this case is not yet over. Considering the same, I do not find it to be a fit case to grant bail to the accused at this stage. Hence, the bail prayer of the accused stands rejected.

Fix **21.04.2025** for evidence on C.S.W. No. 9 & 19.

Fix **22.04.2025** for evidence of C.S.W. Nos. 20 & 24.

Fix **23.04.2025** for evidence of C.S.W. Nos. 22 & 26.

Fix **24.04.2025** for evidence of C.S.W. Nos. 21 & 25.

Prosecution is directed to issue summons accordingly and call for alamat if any on the dates fixed positively. Accused be produced on the dates fixed.

Sd/- (Smt. Ratna Roy)

Judge, Special Court-cum-
Additional Sessions Judge,
1st Court, Serampore,

Sd/- (Smt. Ratna Roy)

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1st Court, Serampore