

Special (P.O.C.S.O.) 15 / 2024

Order No. 04

22.04.2024

Record is put up today on the prayer of Ld. Special P.P.-in-charge for consideration of prayer of I.O. made on 19.04.2024 praying for necessary order for conducting D.N.A. test of foetus of C.N.C.P. girl and accused as well as victim girl for ascertaining the parentage of foetus on the ground stated therein.

The prayer of I.O. is taken up for consideration.

I.O. is present.

Ld. Lawyer for defacto complainant is also present along with the parents of victim girl.

Heard all sides. Perused the prayer of I.O. and record. Considered.

Ld. Lawyer for defacto complainant and Ld. Special P.P.-in-charge submit that this is a case under section 363/365/376(2)(n) of I.P.C. and sections 4/6 of P.O.C.S.O. Act. He also submits that due to the aggravated penetrative sexual assault, the victim girl has become pregnant and she has been admitted in the hospital and her pregnancy is going to be terminated. In order to prove paternity of the foetus, it is necessary that D.N.A. test is performed. They pray for an order for D.N.A. test. I.O. also prays for the same.

Ld. Lawyer for the accused also submits that the accused has not committed the alleged offence and as such, he has no objection if D.N.A. examination is done to ascertain paternity of the foetus.

On careful perusal of prayer of I.O. as well as the record, I am of the view that D.N.A. examination of foetus of the victim girl, victim girl and the accused is necessary to ascertain the paternity of the foetus to establish the truth, in case the pregnancy of victim is terminated in accordance with the law. Hence, prayer for I.O. is allowed.

I.O. is permitted to take necessary steps for D.N.A. test of foetus after abortion of minor victim girl, if at all takes place, victim girl and the accused.

Superintendent of Serampore Walsh S.D. Hospital is directed to take necessary steps for preservation of foetus of victim girl in case the termination of pregnancy of victim girl takes place in accordance with law, drawing of sample from foetus of victim girl, victim girl and the accused for D.N.A. analysis to establish the paternity of the foetus and to hand over the samples to I.O. of this case for taking necessary action.

Accused is directed to appear before the I.O. for obtaining his sample for D.N.A. profiling as and when called for by the I.O.

Let copy of this order be given to I.O. and sent to Superintendent of Serampore Walsh S.D. Hospital for taking necessary action.

It appears from the record that a prayer for cancellation of bail of accused has been filed on 16.04.2024 when this court was on leave on duty and due to bona fide mistake, the date has been fixed beyond fifteen days. Accordingly, fix **25.04.2024** for consideration of prayer of I.O. for cancellation of bail. Call for C.D. Accused must present.

Dictated & Corrected by me.

Sd/- (Sri M.K. Rai)

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

Sd/- (Sri M.K. Rai)

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