

**S.T (POCSO) 10 (08) 2023**  
**Spl (POCSO) 17 / 2023**  
**(C.N.R:- WBHG05-000843-2023)**  
**Present: Smt. Ratna Roy**  
**Judge, Special Court-cum**  
**Additional Sessions Judge, 1<sup>st</sup> Court,**  
**Serampore, Hooghly**  
**(J.O. Code - WB00914)**

**Order No. 37 dated : 20.01.2026**

The accused Dhiren Sikdar is produced from Correctional Home.

Today is fixed for hearing of the petition under section 311 of Cr.P.C dated 17.12.2025, filed by the prosecution and the bail application, filed on behalf of the accused.

Ld. Special PP-in-Charge and Ld. Defence Counsel are present.

The de-facto complainant is present.

The application under section 311 of Cr.P.C dated 17.12.2025 is taken up for hearing.

Ld. Prosecution submitted that due to mistake the statement given by the victim girl, P.W-7 and P.W-2 under section 164 of Cr.P.C was not marked as Exhibits. That for the purpose of getting their statements under section 164 of Cr.P.C marked, the victim girl, P.W-7 and P.W-2 needs to be recalled, otherwise the prosecution will be prejudiced.

Ld. Defence Counsel submitted that there is a direction of the Hon'ble Court for conclusion of the evidence by the prosecution by the first week of January, 2026. The filing of the application under section 311 of Cr.P.C after all the witnesses have been examined by the prosecution is to fill up lacuna, which cannot be allowed.

Considered submissions of both the sides.

I find that the application under section 311 of Cr.P.C has been made by the prosecution praying for recalling the victim girl, P.W-7 and P.W-2 only for the purpose of getting their statements under section 164 of Cr.P.C, marked as Exhibits. The objection of the Ld. Defence Counsel in respect of the application under section 311 of Cr.P.C is only in the respect that lacuna cannot be allowed to be filled up by an application under section 311 of Cr.P.C. There is no challenge on the part of the defence that the victim girl, P.W-7 and P.W-2 had not given statements under section 164 of Cr.P.C before the Ld. Magistrate or about the genuineness of the statements under section 164 of Cr.P.C. Since there is a direction of the Hon'ble Court to conclude the evidence of the witnesses by the first week of January, 2026 and all the witnesses have already been examined by 17.12.2025 and there is scope upon the prosecution to get the said documents marked under section 294 of Cr.P.C (330 of BNSS), I do not find any ground to allow the application under section 311 of Cr.P.C.

Hence, the application under section 311 of Cr.P.C stands rejected.

Heard Ld. Special PP-in-Charge and Ld. Defence Counsel over the bail application filed on behalf of the accused, Dhiren Sikdar.

Ld. Defence Counsel submitted that a bail application on behalf of the accused was filed before the Hon'ble High Court at Calcutta. The Hon'ble Court had rejected the bail prayer of the accused and had directed the Trial Court to conclude the evidence of the witnesses by first week of January, 2026.

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Though the prosecution had completed evidences of all the witnesses but on the last date of examination of the prosecution witnesses i.e., on 17.12.2025 after the evidence of the I.O was completed, the prosecution had filed an application under section 311 of Cr.P.C for recalling the evidence of the victim, P.W-7 and P.W-2, which goes to show that the prosecution still has witnesses to examine. In that case, in view of the direction of the Hon'ble Court as per order dated 11.11.2025 in CR(M) 1769 of 2025, the trial not being completed by the first week of January, 2026, the accused is entitled to bail.

Ld. Prosecution opposed the bail prayer stating that the evidence of all the prosecution witnesses have been completed. At the time of evidence of the I.O, who was the last witness of the case, it was detected that the statements under section 164 of Cr.P.C of the victim girl, P.W-7 and P.W-2 was not inadvertently marked and for that reason he had filed an application under section 311 of Cr.P.C on 17.12.2025. The Court had fixed the hearing of the said application on 23.12.2025 but on that date the Ld. Defence Counsel took adjournment on personal ground, so there is no default on the part of the prosecution. The Hon'ble Court had rejected the bail prayer of the accused.

Considered submissions of Ld. Advocates of both the sides.

I find that the evidence of all the prosecution witnesses have been concluded by 17.12.2025, that is much before the first week of January, 2026. The application under section 311 of Cr.P.C, which had been filed by the prosecution on 17.12.2025 has been rejected by the Court. So, there is no other witnesses left to be examined by the prosecution. Considering the same and the facts of the case, I am not inclined to grant bail to the accused.

Hence, the bail prayer of the accused namely, Dhiren Sikdar stands rejected.

To 25.02.2026 for production of the accused and examination of the accused under section 313 of Cr.P.C.

Dictated & Corrected by me.

SD/- Ratna Roy.

Judge, Special Court-cum-  
Additional Sessions Judge,  
1<sup>st</sup> Court, Serampore,

SD/- Ratna Roy.

Judge, Special Court-cum-  
Additional Sessions Judge,  
1<sup>st</sup> Court, Serampore