

CNR No. WBDJ070002972023

JO Code : WB00682

Special POCSO Case No. 50/2023

Order No.13

Dated 13.08.2024

Prosecution files hazira.

Today is the date fixed for hearing bail application of the accused Martin Rai.

Heard the bail application filed by the accused Martin Rai praying for releasing him on bail in presence of Ld. Advocate for the accused person and the Ld. Special P.P.

Seen the bail petition, perused the case record and considered.

It is submitted by the Ld. advocate for the accused person that this accused was brought under arrest on 19.10.2023 and since then he is in jail custody. Considering the period of detention of the accused person in jail custody, he may be released on bail.

Ld. Special P.P. opposes the prayer for bail of the accused person and submits that only 10 witnesses have been examined in this case out of 30 charge sheeted witnesses and 20 witnesses are yet to be examined in this case. Ld. Special P.P. leaves the discretion upon the court for consideration of prayer for bail of the accused.

Having heard the submissions of the Ld. advocate for the accused person and the Ld. Special P.P., perused the case record and other materials on record, I find that the complainant's minor nephew (victim boy) aged about 13 years was a student of Class VII of St. George High School, Pedong and he used to stay in the private hostel at Pedong owned by the accused person. On 18.10.2023 when the complainant brought his nephew back to his house from hostel for Puja vacation, it was learnt from the guardian of another student that the accused sexually assaulted his nephew since last few months as a result of which he sustained injury on his rectum.

I carefully perused the CD and I found from the history of sexual assault written by the doctor that as per the statement of the victim boy, Martin Rai used to call him at his office at around 12:00 hours at midnight and used to assault him with stick and put his hand over face, neck and private part. The accused used to penetrate his penis inside the rectum of the victim boy. He used to bite him over neck and cheek of the V.B. As per the statement of the Anup Gadai, uncle of victim boy admitted the same as stated above by the victim boy. It is very much clear from the history of sexual violence of the V.B that the accused has committed sodomy upon the V.G. He has been penetrating his penis inside the rectum of the V.B. since last few months back.

It is also evident from the case record that the charge has already been framed against this accused Martin Rai u/s 6 of POCSO Act on the basis of the charge sheet being submitted by the I.O.

on completion of investigation of this case. Accordingly the prosecution has examined as many as 10 witnesses as P.W.1 to P.W.10 in this case out of 30 charge sheeted witnesses and the trial of this case is already going on.

According to the Ld. Advocate for the accused person that this accused is languishing in jail custody for a period of last 10 months as such he may be released on bail.

It is a fact that 20 more witnesses are yet to be examined in connection with this case. The conduct of the accused person is found to be very serious in nature who has committed sodomy upon the V.B. as well as penetrated his penis inside the rectum of the V.B who was staying in his hostel. The VB has suffered such sexual assault since couple of months caused by the accused person.

Considering the aforesaid facts and circumstances, taking into consideration the gravity and nature of the offence of this case as well as advancement of trial of this case, I am of the considered view that it is not a fit case to release the accused on bail.

Accordingly, the prayer for bail of the accused Martin Rai is considered and rejected.
CD produced today before this court be returned to the Ld. Special P.P. at once.
To date (25.11.2024) for evidence.

D&C by me

Sd/-

Judge, Special Court (POCSO)
Kalimpong

Sd/-

Judge, Special Court (POCSO)
Kalimpong