

In the court of Additional Sessions Judge, 1st Court, Uluberia
Special case No.12/18

Order No. 6, dated. 17.03.18

Today is fixed for production of the accused person namely accused Ashoke Mondal and hearing of the bail petition dated 02.03.18.

The said accused person namely Ashok Mondal is produced from custody.

Ld. Special P.P. is present with case diary.

The Ld. Defence Counsels are also present.

It has been contended on behalf of the accused person that he has suffered detention for about 17 days since 28.02.18. The case is absolutely false and an abuse of the POCSO Act. An altercation and scuffle had taken place between the two sides on 28.02.18 but it has been given the colour of a POCSO Act case to keep him behind the bar.

Ld. Special P.P has raised strong objection contending that the accused person is FIR named. There is strong prima facie case against the accused person as revealed through the materials on record and in the CD as per version of the recorded statements of the witnesses u/s 161 Cr.P.C and the victim girl u/s 164 Cr.P.C. This is a very early stage of investigation. The case should be under sections 12 and 8 of the POCSO Act. Investigation is still continuing.

It has also been pointed by the Ld. Special P.P. that the CD lacks pagination.

Considering the facts and circumstances and the rival contentions of the Ld. Advocates for both sides, the materials in the CD and on record it appears that this is a dangerous situation that a CD has made by the I.O without page mark which implies that he can make the case severe or lighter according to his choice by removing and replacing any of the pages at his whims. The liberty of any person cannot be curtailed on the basis of such kind of CD. It gives a strong scent of foul play and should be brought to the notice of the higher authorities of the concerned I.O.

Moreover, in the CD there are statements of the witnesses, interalia, indicating that the knowledge of the case or of the alleged incident was made known on 25.02.18 itself. Then it is questionable as to why this delay in filing of the case has been made.

The CD has to be retained apprehending replacement/removal of the page. Considering all aspects, it appears that many of witnesses have been interrogated and seizure has been complete. The accused person was not taken in P.C. As such his further detention is not likely to improve investigation. Considering all aspect the bail prayer of the accused person is considered and allowed conditionally.

Contd.

Special case No.12/18

Contd. Order No. 6, dated. 17.03.18

Hence

ORDERED

that the accused person, namely, Ashok Mondal may find bail of Rs.3,000/- with two registered sureties of Rs.1,500/- each subject to satisfaction of this Court and subject to condition that he would comply with the conditions of sections 437 and 439 Cr.P.C, would not leave the sub-division without permission of the Court and would attend the Court on each and every date fixed or be duly represented by his Ld. Advocate subject to permission of the Court, would attend the Court on each and every date fixed failing which the bail order shall stand cancelled and he would not repeat any such alleged offence or have any nexus or connection with the defacto complainant or the victim or their family.

If on bail to **28.03.18** for appearance i.d. to date for production from J/C.

To **28.03.18** for personal appearance of I.O.

Let a copy of this order be forwarded to S.P Rural, Howrah for information and necessary action.

Let a copy of this order be sent to the I.O. for information.

Sd/-

Rupanjana Chakrabarti
Additional Sessions Judge, 1st Court,
Uluberia, Howrah.