

In the court of Additional Sessions Judge 1st Court, Uluberia, Howrah

Special case No. 50/22

Bagnan P.S 358/22, dated 08.07.22

Present : Rohan Sinha (JO Code: WB 00883)

Order No. 12, dated. 01.11.2022.

Today is fixed for production of accused.

Accused Sk. Imran Ali is produced from J/C.

The I.O has come up with case diary along with two prayers one is for P.C of the accused person for seven days and the other is for medico legal examination of accused person.

The prayer for medico legal examination for the accused is taken up for consideration.

Heard both sides.

Ld lawyer for the accused persons submits that for the sake investigation if such an examination is required he does not have any objection.

Considering the nature of the allegations the prayer for medico legal examination of the accused is found to be vital and stands allowed.

The Superintendent, Uluberia S.D Hospital is directed to make necessary arrangement for conducting the medico-legal examination of the accused person namely Sk. Imran Ali within a period of one week from this date in accordance with law.

The Superintendent, Uluberia Subsidiary Correctional Home is directed to hand over the accused person, namely, accused Sk. Imran Ali for his medico legal examination to the I.O. on proper receipt and to receive him back after the said examination.

Let a copy of this order sheet be sent to the Superintendent, Uluberia S.D. Hospital for information and compliance.

The prayer for police custody is then taken up for for consideration.

The I.O has submitted that for the purpose of reconstruction of crime alleged and to trace out the other accused person P.C if the present accused Sk. Imran Ali is required.

The prayer for P.C is also forwarded by Inspector in-charge Bagnan police station.

Ld. Special P.P in-charge has gone in tandem with the submission of the I.O. and prayed for 7 days P.C of the present accused person.

On the other hand, Ld. Lawyer appearing for the accused person has opposed the prayer for P.C. on the ground that since the I.O has not yet interrogated the present accused person question of sending his client to P.C does not arise.

In support of his submission Ld. lawyer for the accused has relied on the provision as enunciated in rule 74 of Criminal Rules and Order.

This court requests Mr. Shyama Kanta Basu, Ld. Senior lawyer of the Local Bar, to act as an amicus curie to assist this court in disposal of the P.C. prayer in absence of any previous statement of the accused person. On being so requested Mr. Basu, in his usual fairness, has assisted this court by submitting that previews interrogation of the accused is not mandatory for asking P.C. according to him in an exceptional case and for the purpose of elucidating the truth the court can allow P.C even in absence of any such statement of the accused.

The factual aspect of this case goes to show that the present accused person has voluntarily surrendered before this court on 28.10.2022. In other words it is not a case where he was arrested by the I.O. and produced before this court. This apart, rule 74 (5) of Criminal rules and Order does not make the prior interrogation or statement of the accused as sine qua non for asking police custody. Therefore, in a exceptional circumstances the court can entertain such an application for the sake of proper investigation of the particular case.

The instant case was triggered of on 08.07.2022. Record also says that one accused namely Sk. Raju Ali, who happens to be the brother of the present accused, was arrested and remanded to P.C. The materials on record also go to suggest that it is only on 28.10.2022 when the present accused surrendered before this court after lapse of 90 days of investigation.

This court, after consultation of the materials on record as well as CD, does not find any ground to respond to the prayer of P.C of the present accused person, who is said to be the principal accused of the crime alleged, in the negative.

Therefore, treating the present situation as an exceptional one this court inclined to favour the I.O of this case with three days P.C. of the present accused person.

For the sake of investigation the said prayer for police remand is allowed for three days.

I.O is directed to comply with all the directions of the Hon'ble Apex Court of India in respect of accused when under police custody.

I.O. is directed to comply with all the human rights norms and to follow anti-torture law so long as the accused remains in his custody.

Contd.

Contd. Order No. 12, dated. 01.11.2022.

I.O. is further directed to get the accused medically examined by the Medical Officer pursuant to the direction of the Hon'ble Supreme Court of India during the period of police remand on every 24 hours.

The Superintendent, Uluberia Subsidiary Correctional Home is directed to hand over the accused person, namely, Sk. Imran Ali to the I.O. on proper receipt.

The prayer for bail as made on behalf of the accused person be kept with the record, which shall be considered at the apogee.

Fixing 04.11.2022 for production of the accused from P.C. and hearing of praying for bail.

Let a copy of this order sheet be sent to the Superintendent, Uluberia S.D. Hospital for information.

Let a copy of this order sheet be sent to the Superintendent, Uluberia Subsidiary Correctional Home for information and compliance.

Let a copy of this order sheet be handed over to the I.O. of this case for information and compliance.

Dictated and corrected by me.

Sd/-

Additional Sessions Judge,  
1<sup>st</sup> Court, Uluberia, Howrah.

Sd/-

Additional Sessions Judge,  
1<sup>st</sup> Court, Uluberia, Howrah.