

**SC 79/2017(POCSO)**  
**Mal PS Case No. 642/17 dated 15.12.2017**  
**CNR No. WBJP090001392019**  
**JO CODE: WB00701**

**Order dated 21.09.2022:**

Today is fixed for hearing of evidence.

Accused Ashik Oroan is produced from CCH, Jalpaiguri.

Ld. Lawyer for the accused is present.

Ld. Addl PP is present along with the IO Rakhal Debnath.

The Ld Addl PP submits that though the IO is present for evidence but the doctor namely, S. Mandi who is a vital witness in this case is now posted at Kolkata.

It is submitted by the Ld. Addl PP that due to non-availability of tickets the doctor though poised to appear, has not turned up before this court due to reason beyond his control. He accordingly, prays for discharging the IO at this stage without being examined.

It is also submitted by the Ld. Lawyer for the accused that the doctor is very vital for the case and is required to be examined

I am not oblivious to the fact that the accused is facing trial since long.

Reluctantly, I am inclined to discharge the IO without being examined

However, the Ld. Addl PP is reposed with the responsibility to ensure attendance of Dr S. Mandi on the next occasion on the next date positively. He is also direct to inform the Dr Mandi regarding his date of evidence.

Accordingly,

Fix: 09.11.2022 for examination of Dr S. Mandi and rest witnesses excluding IO.

Issue summon accordingly.

I/C Mal is directed to ensure attendance of witnesses and production of alamat if any.

Let the copy of the Order be sent to IC Mal PS for information and necessary action.

Dict. & Correct. By me

A.S.J.

Addl. Sessions Judge  
Mal, Jalpaiguri.

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**Later,**

It is 02.00 pm.

The application of bail on behalf of Ashik Oraon is taken up for consideration.

Ld. Addl PP is present. Copy served.

Complainant is present.

Perused the bail petition duly supported by an affidavit which indicates that no bail application is pending before any higher forum.

It is submitted by the Ld. Lawyer for the accused that most of the witnesses have been examined.

It is submitted that on the flat perusal on the medical report that the case has been frivolously filed.

It is submitted that many witnesses are yet to be examined and there is no immediate prospect of disposal.

It is also submitted that the accused is the sole bread earner of his family and the accused is in custody since December, 2017 as such, his family, consisting of a widow mother, is facing financial difficulty. It is also highlighted by the Ld. Lawyer for the accused that the accused has minimum chance of absconding as he has permanent place of residence within the jurisdiction of the court.

It is submitted further that the accused may be released on bail on any condition if the court deem fit and proper.

The Ld. Addl PP opposes the prayer for bail and submits that the case is in the fag end. It is also submitted that there is no lacuna on the part of the prosecution to secure the attendance rather, the IO has also turned up today but due to situation beyond the control of human being, the case was adjourned.

Considered.

It is found on perusal of the record that the accused is charged with an offence for causing sexual assault against minor daughter aged about 4 years.

The record also suggests that vital witnesses has been examined and today due to unavoidable circumstances, the doctor was not examined.

I am not inclined to release the accused on bail.

The bail petition is thus considered and rejected.

To date

Dict. & Correct. By me

A.S.J.

Addl. Sessions Judge  
Mal, Jalpaiguri.