

CNR No. WBDJ070000682023

JO Code : WB00682

Special POCSO Case No. 7/2023

Order No. 8

Dated 01.03.2024

Accused Manoj @ Lucky Rai is produced before this court today from J/C.

Prosecution files attendance of one witness the V.G.

Today cross examined the V.G. in full as P.W.1 in this case and discharged.

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

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

It is submitted by the Ld. Advocate for the accused person that this accused is in Jail custody since long and from the DNA test report it is found that the accused is excluded from being the father of the foetus of the V.G. as such he may be released on bail.

Ld. Special P.P. submits before this court that she has strong objection against the granting of bail in favour of the accused person at this stage as other witnesses are yet to be examined in this case. Hence the prayer for bail of the accused person may be rejected.

Having heard the submissions of Ld. Advocate for the accused person and the Ld. Special P.P., perused the case record and other materials on record, I find that Pedong P.S. case No. 8/23 dated 18.03.2023 u/s 5(j)(ii) and 6 of POCSO Act was started in reference to his FIR made by Rhenock P.S. case No. 0 dated 18.03.2023 u/s 5(j)(ii) and 6 of POCSO Act from officer in charge of Rhenock P.S. The V.G. aged about 16 years of Pithamchin under Lingsey G.P. used to stay with her two cousin sisters in a rented house since 15.02.2023 and they were students of Class IX of Lingsey High School. In the month of February, 2023 at about 20:30 hours one of her friends namely Lucky of Khamdong came in her room and stated that he will stay at her room for the night. V.G. allowed her and when V.G. went to her bed then Lucky also went to bed of V.G. and touched her breast. Then V.G. went to floor then again accused came to her and forcibly committed sexual assault upon her. At that time her two sisters were also present in the room. Thereafter in the morning at 4:00 hours the accused Lucky left the room. When the V.G. called him over phone and found accused has blocked her. When the V.G. had been to Rhenock hospital due to stomach pain where attending medical officer examined and found she is pregnant as per urine test indicated positive sign.

Afterwards, the I.O. after completion of investigation of this case submitted the charge sheet against this accused Manoj Rai @ Lucky for the offence u/s 5(j)(ii) and 6 of POCSO Act, 2012.

Thereafter the charge was framed against this accused person for the offence u/s 5(j)(ii) and 6 of POCSO Act, 2012. Accordingly, the case was fixed for recording the evidence and the prosecution has examined only one witness i.e. the V.G. as P.W.1 in this case. The allegation against this accused person is the commission of penetrative sexual assault upon the V.G. As only the V.G. has been examined in this case as such I am of the considered view that the accused should not be enlarged on bail at this stage. There are other witnesses who are yet to be examined in this case. That the DNA report submitted by State Forensic Science Laboratory cannot be treated as genuine one unless the maker of DNA report is tested by examination and cross examination before this court.

In such a situation, I am not inclined to allow the accused person to be released on bail.

Considering the nature and gravity of the offence of this case and taking into consideration the commencement of trial of this case, the prayer for bail of the accused Manoj Rai @ Lucky is considered and rejected.

Issue summons upon CSW Nos. 2 to 5.

Prosecution is directed to take steps.

Fix 13.05.2024 for examination of CSW Nos. 2 & 3,

Fix 14.05.2024 for examination of CSW Nos. 4 & 5.

Todate for production and evidence.

D&C by me

Sd/-

Judge, Special Court (POCSO)

Kalimpong

Sd/-

Judge, Special Court (POCSO)

Kalimpong