

Order No. 4

Dated: 14.11.2024

Today the date is fixed for production of accused Sanjit Roy @ Chotka.

The accused is produced from Custody.

Ld. Adv for the accused persons files and moves a petition for bail stating that accused is in custody for a considerable period of time on a false and concocted complaint and that the accused would attend court on each date if granted bail.

A petition objecting to the bail application is filed on behalf of defacto complainant and another petition for framing of charge is also filed but it is not pressed and is thus rejected.

Ld. Adv for the accused points out that there is a petition dated 7.11.2024 filed by the accused persons before the Ld. Sessions Judge stating that copy was not served on the accused persons prior to the commitment of case record for which the case record should be returned back to the Court of Ld. CJM, Murshidabad and the said petition is still pending.

The pending petition is at first taken up for consideration.

Perused the case record which reveals that in the order dated 24.10.2024 passed in GR 4034/2024 TR 10512024 it is stated that -"..... copy has been supplied to the accused in compliance with the provision of Section 207 of Cr.P.C and the case is ready for commitment.

Let the case be committed to the court of Ld. Sessions Judge in view of the provision contemplated u/s 209 of Cr.P.C....."

Hd Ld PP in charge. Let a report be called for from the Ld. CJM, Murshidabad as the order sheet does not bear the signature of either the accused person or his Ld. Advocate.

Let a copy of this order be sent to the Ld. CJM, Murshidabad requesting him to submit a report regarding the alleged non-service of copy on the accused by next date.

The bail petition filed by the accused is now taken up for consideration.

Ld. Adv for the accused submits that there is ample contradiction between the statement of the victim lady u/s 183 BNSS and that recorded under section 180 of BNSS of the witnesses. It is further submitted that accused is in custody since long over a false allegation and the medical report of victim lady also does not support the allegation of forceful rape on the victim. He further submits that the mother of victim lady in her statement recorded u/s 183 BNSS has stated about three other persons who had also raped her daughter along with Chotka and she has specifically named those three persons, but there is no reflection regarding them in the investigation of this case and their names do not transpire in the charge sheet.

Heard Ld. PP-in-charge who raises strong objection and submits that this is a case in which a grave and heinous offence of rape has been alleged by confining the victim lady on the false promise of job and charge sheet has been submitted in the instant case u/s 127 (2)/64(1)/118(2)/351(2) BNS and granting bail at this stage when charge is yet to be framed might lead to the abscondence to the accused and intimidation of the vital witnesses along with tampering of evidence.

Ld. Advocate for the defacto complainant present in the court also strongly opposes the bail petition.

Perused the case record and case diary, especially the statement of victim lady u/s 183 BNSS wherein it is alleged that she was called to the house of accused for showing some documents for the purpose of giving her a job and there on gun point she was raped and was given intoxicating liquor after which she lost consciousness.

Considering the facts and circumstances of this case and the heinous nature and gravity of the offence alleged, at this stage when charge is yet to be framed granting of bail might lead to the abscondence of the accused and intimidation of vital witnesses along with the scope of tampering with evidence, for which prayer for bail is considered and rejected at this stage.

Fix 12.12.2024 for report from Ld. CJM,Murshidabad regarding supply of copy to the accused and thereafter framing of charge after the same is completed.

D/C by me:-

ASJ – 1st

Addl. Sessions Judge, 1st Court

Berhampore, Msd

Berhampore, Murshidabad