

SPL(POCSO) 44 of 2025

Present: SUTIRTHA BANERJEE[J.O. Code WB-00980]
Judge(Special Court)POCSO Act,
Basirhat, North 24 Pdns

Order no. 10 dated 20/06/2025

Accused Abu Chhiddik Molla is present by filing hazira.

Accused Abusadek @ Abusadak Molla is produced from judicial custody through audio video linkage.

Ld. Special Public Prosecutor Sri Gautam Banerjee has entered his appearance by filing hazira for the first time and is present with case diary.

The defacto complainant is present with a prayer for objection against the bail petition for bail with fresh vakalatnama.

Ld. Advocate for accused submits that no bail application under section 482/483 BNSS is pending/rejected by Hon'ble High Court.

Heard Ld. Advocate for the accused who submits that the allegations are totally false and whatever happened occurred out of love affair between parties and long incarceration.

Ld. Special Public Prosecutor raises objection citing the gravity of alleged offences and but leaves matter to discretion of the Court.

Heard both sides. Considered.

At the outset it must be stated that presumption under section 29 of the POCSO Act is not absolute and doesn't mean the prosecution's version of events must be accepted without question and the presumption is triggered when the trial begins, specifically after charges are framed against the accused and it is settled that the prosecution still needs to establish foundational facts before the presumption can be applied.

Here charge-sheet has been submitted and investigation is complete.

It is also apposite to add that the Hon'ble Supreme Court in **Dr. Vinod Bhandari v/s. State of Madhya Pradesh AIR 2015 SCW 1052**, has held:-

"12.The object of keeping a person in custody is to ensure his availability to face the trial and to receive the sentence that may be passed. The detention is not supposed to be punitive or preventive. Seriousness of the allegation or the availability of material in support thereof are not the only considerations for declining bail."

Thus mere presence of prima-facie materials must not be the sole criteria of rejection of the bail prayer, especially when bail has been promulgated to be the rule and jail the exception. It is also apposite to add that detention at this stage is not punitive. There is no material to conclude that the accused person has propensity to win over the witnesses or tamper with the evidence if released on bail. There is no previous criminal antecedent of the accused either.

Accused is in custody since 24/3/2025 which is also a factor to be taken in consideration. Considering the above discussion, the completion of investigation and the statement of the V.G. under section 183 BNSS, I am inclined to enlarge the accused on bail.

Hence based on the above delineations the prayer for bail stands allowed.

(2)

Accused Abusadek @ Abusadak Molla may find interim bail on furnishing bond of Rs.5,000/- with two sureties of Rs 2,500/- subject to satisfaction of Ld. A.C.J.M., Basirhat with further condition not to commit and/or indulge in any act similar to the offence for which he has been indicted in this case and not directly or indirectly making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court. Copies ready and supplied to both accused persons.

If on bail, to 09/09/2025 for appearance and framing of charge.

Dictated & corrected by me

Judge,Spl. Court (POCSO Act)
Basirhat, North 24 Parganas

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