

Present: SUTIRTHA BANERJEE [J.O. Code WB-00980]

Judge(Special Court)POCSO Act,

Basirhat, North 24 Pgnos

Order no. 9 dated 25.08.2025

Accused Rajesh Kar produced from judicial custody.

Bail application filed for accused person by Ld. Advocate.

Ld. Special P.P. files hazira and is present.

De-facto complainant is present.

At the very outset, Learned Advocates for the accused person submits before this Court that no such application u/s 482/483 BNSS is either pending and/or disposed of in the negative by any higher forum.

Ld. Advocate for accused prays for bail on ground of false implication and submits that charge-sheet had been submitted and accused had not committed any offence under POCSO Act and may be released on bail.

Ld. Special Public Prosecutor raises objection but leaves matter to discretion of the Court.

Heard both sides. Considered.

Perused the record. Charge-sheet already submitted.

It appears accused was long absconding and W/A had to be issued to secure his presence.

Case diary reveals that accused had role to play in taking the V.G. to meet the prime accused. There is no allegation as to offence under POCSO Act against him.

I have traversed the entire gamut of this case and the materials exposted in the CD and after such exercise I find that further confinement of the accused person in judicial custody is not an indispensable necessity for the unhindered trial as 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. It is well settled that at pre-conviction stage, there is presumption of innocence. 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.

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

Accused may hence find interim bail of Rs. 3,000/- with one surety of like amount subject to satisfaction of Ld. A.C.J.M., Basirhat i/d to judicial custody till 2/9/2025 with further condition to attend Court regularly and not to commit

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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 or to any police officer or tamper with the evidence.

If on bail, to 02/09/2025 for appearance.

Let a copy of this order be sent to Ld. A.C.J.M., Basirhat for his information and necessary action at once.

Dictated and corrected by me :

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