

SPL 95/2025

Present: SUTIRTHA BANERJEE [J.O. Code WB-00980]
Additional District & Sessions Judge , Basirhat
North 24 Pgns

Order no. 9 dated 22/08/2025

Accused Apurba Paik@Raja produced from judicial custody through audio video linkage.

De-facto complainant appears in response to notice issued.

Charge-sheet submitted; issue summons against chargesheeted accused Krishna Pada Mondal, Rekha Mondal, Priyanka Mondal and Kamalesh Paik fixing 6/11/2025 for S/R.

One bail petition is filed for the accused person. It is submitted that whatever happened was result of love affair which subsequently turned sour as is evident from the delayed F.I.R. which admittedly disclosed that V.G. left her home 3 months back yet no complaint was filed immediately thereafter; charge-sheet had been submitted and accused would face trial and he may be favoured with an order of bail.

Ld. Special Public Prosecutor raises objection and such objection is echoed by the de-facto complainant.

Heard both sides. Considered.

I have traversed the entire gamut of this case and the materials exposted in the case diary.

Case diary is intermittently paginated in pen and pencil and page numbers also overwritten in many pages.

Perused the case diary including statement of the V.G. under section 183 BNSS which is no doubt incriminating. Investigation is complete.

It is clear from the written complaint that it has been alleged that V.G. who was aged 16+ years left her home on 10/3/2025 and de-facto complainant came to know that accused had kidnapped her and taken her to Tamil Nadu but kept silent being fearful of social repercussion. On 9/6/2025 the V.G. made a call to her sister disclosing her distress and praying that she be recovered. F.I.R. was lodged on 10/6/2025.

V.G. appears to have been recovered from Nabinganj Ferry Ghat and not Tamil Nadu allegedly from possession of accused. However the statement of the V.G. under section 180 BNSS (page 44 of the case diary on which I have put my dated initials) suggests that she herself came back to her sister. There are discrepancies in statements of the V.G. under section 180BNSS and 183 BNSS as to the manner and pretext under which she was induced to go with the accused as alleged. It also appears from statement of the V.G. that she earlier also went to house of the accused and her father brought her back from there which finds no mention in the written complaint. Initially the V.G. refused Medico legal examination but subsequently agreed to it. Medico legal examination admittedly shows rupture.

It must be clarified that Hon'ble High Court Delhi in **Dharmander Singh v. State (Govt. Of Nct Of Delhi) 2020 SCC ONLINE DEL 1267** has laid down:-

"Therefore, if a bail plea is being considered before charges have been framed, section 29 has no application ; and the grant or refusal of bail is to be decided on the usual and ordinary settled principles."

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.”

Though admittedly the V.G. is minor materials in case diary raise sufficient doubts about the allegations which are subject to proof at trial.

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. 10,000/- with two sureties of Rs. 5,000/- subject to satisfaction of Ld. A.C.J.M., Basirhat i/d to judicial custody till 6/9/2025 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 or tamper with the evidence.

In addition he must not try to make any contact with the V.G.

If on bail, to date i.e. 6/11/2025 for appearance and SR/appearance of other accused persons.

Dictated & corrected by me

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

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