

**In the Court of the Additional District & Sessions Judge,
Fast Track Court – I,
Basirhat, Dist.- North 24 Parganas**

Present

Shri Pradip Kumar Adhikary, WBJS,
J O Code (UID No.) - WB916,
Additional District & Sessions Judge,
Fast Track Court – I,
Basirhat, Dist.- North 24 Parganas.

**ST No.- 61 of 2019
(Registration No. SC No.- 337 of 2019)**

arising out of Basirhat PS Case No.- 1462 of 2016 dated 06/12/2016

**Charge framed under sections 363/366/368/370/370A/342/343/344/346/419/120B of the
Indian Penal Code, 1860
and
sections 3/4/5/6/7/9 of the Immoral Traffic (Prevention) Act, 1956**

CNR No.- WBNP 1000 1689 2019

State

v.

**Hasirun Laskar @ Jhuma Laskar, Rafikul Laskar, Gouri Tamang, Mrinal Kanti
Sarkar @ Gopal, Puja Lal Sharma @ Asma and Sagar @ Israfil Laskar**

Order No.- 35
06/12/2022

Today is fixed for evidence of CSW No.- 01 & 02.

Out of seven (07) accused the case against the accused Priti Tamang @ Pawar Madam was filed for ever on 01/02/2022.

The case is now proceeding against **six (06) accused.**

Out of six (06) accused three (03) accused **Hasirun Laskar @ Jhuma Laskar, Mrinal Kanti Sarkar @ Gopal and Puja Lal Sharma @ Asma are on Court bail.** All these three (03) accused who are on Court bail are present by filing separate hazira.

The remaining three (03) accused **Rafikul Laskar, Gouri Tamang and Sagar @ Israfil Laskar are produced from judicial custody.**

The accused Rafikul Laskar has filed an application praying for releasing him on bail on the ground that he is innocent, the case has been filed falsely, he has permanent abode, he will not abscond if gets bail and he will face trial by remaining present on the date of trial.

The accused Gouri Tamang has also filed an application praying for releasing **her** on bail on the ground that she is behind the bar since long and till date no witness has come to depose in this case and she is innocent and has been falsely implicated and she will attend the Court regularly if she gets bai and there is no chance of abscontion.

The accused Sagar @ Israfil Laskar has also filed an application praying for releasing **him** on bail on the ground that he has been falsely implicated in this case, the co-accused are onbail and he has hearth home and root in the society and as such he will not

abscond or evade trial.

The Ld. Special Public Prosecutor is present by filing hazira.

Notice of the application for bail has been given to the Ld. Special Public Prosecutor wherein he has endorsed his signature raising objection.

Heard both sides.

Considered the materials on record.

Upon such consideration and hearing it appears that finding that there is sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to the Magistrate, the Officer-in-Charge, Basirhat PS submitted charge-sheet punishable under sections 363/365/366/368/370/370A/342/343/344/346/419/120B of the of the Indian Penal Code, 1860 read with sections 3/4/5/6/7/9 of the Immoral Traffic (Prevention) Act, 1956 and also forwarded the accused for trial. Subsequently, after scrupulously scrutinizing the report and accompaniments by applying judicial mind, the final report was accepted and cognizance of the above mentioned offence was taken. Thereafter, the case record was committed to this Court.

It transpires that on 12/12/2019 upon consideration of the record of the case and the documents submitted therewith along with case diary and hearing of both the parties the Court was of opinion that there was ground for presuming that the accused have committed offence which are exclusively triable by the Court of Session and accordingly, charge punishable under sections 363/366/368/370/370A/342/343/344/346/419/120B of the of the Indian Penal Code, 1860 read with sections 3/4/5/6/7/9 of the Immoral Traffic (Prevention) Act, 1956 was framed in writing against the accused.

The case record further reveals that during framing of charge the accused have neither produced any materials and documents nor explained grave suspicion against them emerging from the charge-sheet along with the accompanying materials and documents.

So, there is no iota of doubt that a prima facie case punishable under the above mentioned sections has already been made out and the Court has already considered prima facie that there is sufficient ground to proceeding against the accused.

Hence, considering the nature of allegation, gravity of the offence, enormity of the crime, heinousness/seriousness of the accusation, circumstances in which it was committed, severity of the punishment in the event of conviction, the nature/character and strength of evidence in support of the accusation/charge and the danger of justice being thwarted with by grant of bail, the prayer for bail of the accused Rafikul Laskar, Gouri Tamang, Sagar @ Israfil Laskar are refused at this stage.

The three (03) accused Rafikul Laskar, Gouri Tamang and Sagar @ Israfil Laskar are remanded to judicial custody till next date.

The Ld. Special PP has filed hazira of CSW No.- 02, Sarifa Khaton who happens to be the victim girl.

The Ld. Special PP has submitted that the de-facto complainant is suffering from illness and as such he could not turn up.

Annexing xerox copies of some medical papers the Ld. Advocate on behalf of the de-facto complainant has filed an application stating that the de-facto complainant is aged about 86 years and severely unwell and as such he could remain present due to medical complications. Hence, he has prayed for another date for recording of evidence of de-facto complainant.

The Court proceeded to take evidence on the victim girl.

But the accused Puja Lal Sharma @ Asma has filed an application stating that the Ld. Advocate is not willing to examine the witness unless examination of the informant is done and as such he has prayed for another date for examination of informant.

The Ld. Advocate has not prayed for deferral of the cross-examination of the victim girl till the examination of the de-facto complainant but he has vehemently resisted to take examination-in-chief of the victim girl prior to examination of the de-facto complainant. He has submitted that it is rule that evidence of the de-facto complainant is to be taken first and then the examination of other witnesses comes in the array. However, he has failed to highlight any specific provisions of law.

In terms of the provisions of section 231 CrPC it is the duty of the Court to take all such evidence as may be produced in support of the prosecution.

Section 309 of the CrPC also mandates that in every inquiry or trial the proceedings shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded.

This is a case punishable under sections 363/366/368/370/370A/342/343/344/346/419/120B of the Indian Penal Code, 1860 and sections 3/4/5/6/7/9 of the Immoral Traffic (Prevention) Act, 1956.

In ***State of West Bengal v. Sangita Sahu @ Shaw*** : CRM No.- 3697 of 2018 the Hon'ble Court has been pleased to direct that

(a)	*	*	*	*	*	*	*	*	*	*
(b)	*	*	*	*	*	*	*	*	*	*
(c)	*	*	*	*	*	*	*	*	*	*
(d)	*	*	*	*	*	*	*	*	*	*
(e)	*	*	*	*	*	*	*	*	*	*
(f)	*	*	*	*	*	*	*	*	*	*
(g)	*	*	*	*	*	*	*	*	*	*
(h)	*	*	*	*	*	*	*	*	*	*

(i) *prosecution of such cases shall be done with utmost promptitude and be concluded at an early date.*

(j) *during trial, learned Public Prosecutors shall ensure the recording of depositions of the victims at the earliest without unnecessary delay preferably within a month from the date of commencement of trial so that any chance of winning over or intimidation of the victims may be minimal.*

Today the victim is present but the accused Puja Lal Sharma @ Asma stands in the way of recording her evidence by filing the instant petition on the pretext that the de-facto complainant has to be deposed first.

The instant petition is filed with mala fide intention in order to cause delay in the trial and to frustrate the victim. The petition is not tenable in the eye of law and as such the same is rejected with cost of Rs. 10,000/- (Rupees ten thousand only) to be paid by the accused Puja Lal Sharma @ Asma to the victim on the next date.

The case record further reveals that on 04/11/2022 the Officer-in-Charge, Beniapur PS was directed to submit a report stating whether the accused Puja Lal Sharma @ Asma complied with or violated the condition nos.- 2 and 5 by the next date positively.

The Investigating Officer was also directed to submit a report stating whether the accused Puja Lal Sharma @ Asma complied with or violated the condition no.- 03.

It is pointed out that on the last date when the PO was on leave those reports were submitted.

The Ld. Defense Counsel has prayed for passing necessary order regarding cancellation of interim bail granted to the accused Puja Lal Sharma @ Asma filed by the de-facto complainant Badsha Sardar.

On 04/11/2022 neither the de-facto complainant nor his Ld. Advocate was found absent on repeated calls. On that date both sides were directed to get ready for hearing of the said petition on the next date positively. On the next date PO was on leave and as such hearing could not be done.

Today the Ld. Advocate on behalf of the de-facto complainant is present and detailed hearing was done before the Predecessor-in-Chair but due to her transfer the matter has not been disposed of. He has prayed a short date for hearing of the application for cancellation of interim bail granted to the accused Puja Lal Sharma @ Asma on 12/12/2019 filed by the de-facto complainant Badsha Sardar on 07/02/2020.

Hearing has not been done on the reports submitted by Police Officers.

So, an opportunity should be given to both sides to forward their respective submission over the matter.

Both the parties are directed to get ready for hearing of the application for cancellation of interim bail granted to the accused Puja Lal Sharma @ Asma on 12/12/2019 filed by the de-facto complainant Badsha Sardar on 07/02/2020.

In compliance with the mandates of ***Freedom Firm v. Commissioner of Police, 2015 SCC OnLine Bom 4265 decided on 30-10- 2015*** the Investigating Officer is directed to submit a report

1. of antecedents of the accused Puja Lal Sharma @ Asma and his involvement, if any, in similar offences;
2. about verification of the address of the said accused, whether it is authentic or not, whether the place of residence given in a rented accommodation, then the details of the movable and immovable property, her permanent address etc.;
3. whether the brothel has been sealed or not;
4. whether the accused is likely to have contact with the victim and intimidate or threaten her; and
5. whether the accused is likely to repeat the offence.

To 27/01/2023 for submission of report by the Investigating Officer;

To 30/01/2023 for hearing of the application for cancellation of interim bail granted to the accused Puja Lal Sharma @ Asma on 12/12/2019 filed by the de-facto complainant Badsha Sardar on 07/02/2020;

To 31/01/2023 for evidence of the victim i.e. CSW No.- 02 and payment of cost of Rs. 10,000/- to the victim by the accused Puja Lal Sharma @ Asma;

To 01/02/2023 for evidence of the de-facto complainant i.e. CSW No.- 01.

Both the parties are directed to get ready for evidence on the date fixed positively in default necessary order will be passed.

The prosecution is directed to issue process for compelling the attendance of the witnesses and / or the production of the document or thing, if any and to inform the Investigating Officer.

In compliance with the mandates of the Hon'ble Apex Court the Investigating Officer is directed to remain present during trial.

The Investigating Officer is also directed to keep the witnesses present in Court.

The accused who are on Court bail are directed to remain present on the next date.

The Superintendent of the concerned Correction Home is directed to produce the accused who are remanded to judicial custody.

Let a copy of this order be sent to the Investigating Officer through the Officer-in-Charge, Basirhat PS for compliance.

The Bench Clerk is directed to do the needful at once.

Typed by me

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