

IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE, FAST TRACK COURT – 1, PURULIA. Present : Sri Somak Das (J.O. Code-WB00944) Additional Sessions Judge, Fast Track Court No. -1, Purulia <u>Sessions Case No. 104/2024</u> <u>Sessions Trial No. 07(09)25</u> <u>C.I.S. No. 104/2024</u> <u>CNR No. WBPU01-001239-2024</u> DATE OF JUDGMENT : <u>14th day of July, 2026</u>	
COMPLAINANT	STATE OF WEST BENGAL
REPRESENTED BY	Advocate Subodh Chatterjee Public Prosecutor in-charge
ACCUSED	Samir Mandal
REPRESENTED BY	Advocate Anirban Adhikary

Date of Offence	Since 23.09.2022 and 24.01.2024
Date of FIR	23.02.2024
Date of Charge sheet	22.04.2024
Date of Framing of Charges	09.09.2025
Date of commencement of Evidence	28.01.2026
Date on which Judgment is reserved	---
Date of Judgment	14.07.2026
Date of Sentencing Order, if any	NIL

ACCUSED DETAILS							
Rank of the Accused	Name of the Accused	Date of Arrest	Date of release on Bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention Undergone during Trial for purpose of Section 428 Cr.P.C.
A-1	Samir Mandal	23.02.24	16.03.24	U/S 417/376 (2)(n) I.P.C.	Acquitted	N/A	N/A

LIST OF PROSECUTION WITNESS		
RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Name not disclosed	Defacto complainant/V.G
PW-2	Shampa Paramanik	Other witness
PW-3	LC/637 Tilottama Mudi	Police witness
PW-4	LC/3061 Bulu Mahato	Police witness
PW-5	LC/891 Kaushallya Majhi	Police witness
PW-6	LC/3084 Srabani Gorain	Police witness
PW-7	C/3291 Naushad Momin	Police witness
PW-8	Name not disclosed	Father of the VG
PW-9	Name not disclosed	Mother of the VG
PW-10	Dr. Shobhan Roy	Medical witness
PW-11	LSI Sonali Chatterjee	Investigating Officer

LIST OF DEFENCE WITNESS		
RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW-1	NIL	NIL

LIST OF COURT WITNESS		
RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW-1	NIL	NIL

LIST OF PROSECUTION EXHIBITS			
Serial no.	Exhibit No.	Description of documents	By whom proved
1.	P1	Typed complaint	PW1
2.	P1/1	Receiving endorsement along with signature of O.C, L.S.I Arpita Bhatta of Purulia Sadar Women PS on the typed complaint	PW11
3.	P2	Consent form for medical examination of the VG	PW10
4.	P2/1	Signature of PW-1 on the consent form	PW1
5.	P2/2	Signature of PW-5 on the consent form	PW5
6.	P3	Medical examination report of the VG	PW10
7.	P3/1	Signature of P.W.1 on the medical examination report of the VG	PW1
8.	P3/2	Signature of P.W.5 on the medical examination report of the VG	PW5
9.	P4	Statement of the VG recorded U/s 164 Cr.PC	PW1
10.	P4/1	Signature of P.W.1 on her 164 statement	PW1
11.	P5	Seizure list dated 23.02.2024 of wearing apparels of the accused	PW11
12.	P5/1	Signature of PW-3 on the seizure list dated 23.02.2024	PW3
13.	P5/2	Signature of PW-4 on the seizure list dated 23.02.2024	PW4
14.	P6	Seizure list dated 23.02.2024 of vaginal swab and smear of the VG	PW11
15.	P6/1	Signature of PW4 on the seizure list dated 23.02.2024	PW4
16.	P6/2	Signature of PW5 on the seizure list dated 23.02.2024	PW5
17.	P6/3	Signature of PW6 on the seizure list dated 23.02.2024	PW6
18.	P7	Seizure list dated 02.03.2024 of Urethral swab and smear of the accused	PW11
19.	P7/1	Signature of PW7 on the seizure list dated 02.03.2024	PW7
20.	P8	Seizure list dated 02.03.2024 of wearing apparels of the VG	PW11

21.	P8/1	Signature of PW8 on the seizure list dated 02.03.2024	PW8
22.	P8/2	Signature of PW9 on the seizure list dated 02.03.2024	PW9
23.	P9	Consent form for medical examination of the accused	PW10
24.	P10	Medical examination report of the accused	PW10
25.	P11	Formal FIR	PW11
26.	P12 series	Rough sketch map and index of the 1 st PO	PW11
27.	P13 series	Rough sketch map and index of the 2 nd PO	PW11
28.	P14 series	Rough sketch map and index of the 3 rd PO	PW11
29.	P15	Seizure list dated 17.03.2024 of medical document of VG	PW11
30.	P16	Zimmanama dated 17.03.2024	PW11

LIST OF DEFENCE EXHIBITS		
Sr. No.	Exhibit Number	Description
1.	NIL	NIL

LIST OF COURT EXHIBITS		
Sr. No.	Exhibit Number	Description
1.	NIL	NIL

LIST OF MATERIAL OBJECTS		
Sr. No.	Material Object Number	Description
1.	NIL	NIL

J U D G E M E N T

1. The accused person named above stands trial for the alleged offence punishable under Sections 417/376(2)(n) of the Indian Penal Code, 1860, hereinafter, referred to as the I.P.C, in short.

2. The fact of the prosecution case is that the defacto complainant/VG lodged a complaint before the O.C, Purulia Sadar Women P.S to the effect that on 23rd September 2022 the accused, on promise of marriage, took her in the house of Shampa Paramanik of Napit para on rental basis and he resided with her as husband and wife and they cohabited with each other. After one month, he took her to Ram colony, Manbazar in a rented house of Pintu Das and they stayed there for 3 months as husband and wife. Thereafter, he further took her in a rented house of Sonali Rakshit of Chatani para and he resided with her peacefully. Suddenly, she found that his behaviour was changed, such as, he sometime did not return house and even did not pay monthly rent on due time. She subsequently came to know that the accused was a married person and he had his wife, one son and one daughter and they together reside at Nilkuthidanga. On 24.01.2024 the accused made physical relationship with her at the house of Sonali Rakshit for the last time. The accused did not keep any contact with her and intentionally avoided her.

3. On the basis of the said typed complaint, Purulia Sadar Women P.S Case No. 07/24 dated 23.02.2024 was started against the accused person namely, Samir Mandal under Sections 417/376 of the I.P.C.

4. L.S.I Sonali Chatterjee of Purulia Sadar Women PS was entrusted to investigate the case, who after completion of the investigation, submitted charge sheet being no. 09/24 dated 22.04.2024 against the F.I.R named accused person (A1) under Sections 417/376(2)(n) of the I.P.C.

5. The Ld. Chief Judicial Magistrate, Purulia on 14.05.2024 committed this case to the court of learned Sessions Judge, Purulia U/s 209 Cr.PC. Cognizance was taken under Section 193 of the Code of Criminal Procedure by the learned Sessions Judge, Purulia and on 01.08.2024 she transferred the case to this court for trial and disposal. On 13.08.2024 this Court accepted the case record.

6. On perusing the charge sheet and the materials sent with it under Section 173 of the Code of Criminal Procedure, 1973, hereinafter referred to as the Cr.P.C, in short, on 09.09.2025 charge has been framed against the accused person above named under Sections 417/376(2)(n) of the I.P.C. The substance of charge under

the above sections was read over and explained to the accused person in Bengali to which he pleaded not guilty by saying “Ami Nirdosh” and claimed to be tried.

7. After completion of the evidence of the prosecution, the accused person was examined under Section 313 of the Cr.P.C. The accused person declined to adduce any defence witness on his behalf. The defence case as it appears from the trend of cross examination of the prosecution witnesses and the answers given by the accused person in examination under Section 313 of the Cr.P.C is that of total denial of the prosecution case.

POINTS FOR CONSIDERATION

8. In order to ascertain the allegations against the accused person, the following points are framed for adjudication.

- i. Whether the accused person has committed any offence punishable under Sections 417/376(2)(n) of the I.P.C. ?
- ii. Whether the prosecution has been able to prove the case against the accused person beyond all reasonable shadow of doubt ?

DECISION WITH REASONS

9. Both the two points are taken up together for consideration for the sake of convenience as they are interrelated.

10. The prosecution, to establish the occurrence and to bring home the charges as labeled against the accused person, has examined as many as eleven (11) witnesses.

11. **The P.W. 1 is the defacto complainant/V.G of this case.** In her examination-in-chief, she deposed that in the year 2015, she got married with Manas Kumar Mondal of Tanginoyada under Hura PS. Out of wedlock, she gave birth of one male child, he was aged about 9. In the year 2021, accused Samir Mondal oftenly talked with her over phone and thereby, a friendly relation grew in between them. During that time, her husband was not present in the house. When he returned home, she informed him about their friendly relation. He also came to know about their relation from others. After hearing the same, her husband assaulted

her and thereafter informed about their relation to her paternal house. Then, she went to her paternal house and stayed there for six months. On 23.09.2022, accused took her and her child to the rented house of Sampa Paramanik of Napitpara, Purulia and they stayed there as husband and wife. The owner of the said rented house wanted to see their Aadhaar Card and then the accused shifted them to the rented house of Pintu Das at Sriram Colony in Manbazar. They stayed there for three months. On demand, accused did not want to pay rent and for that the owner told us to leave the rented house. During stay in the said house, the accused told her that he will marry her, if she divorce her husband and accordingly, divorce case was filed. Accordingly, the accused took them to the rented house of Shibu Kundu at Chatanipara, Purulia and stayed there as husband and wife for more than one year. She became pregnant there. Subsequently, as per instruction of accused, her pregnancy was aborted at Sanjivani Nursing Home. After that, the accused oftenly misbehaved with her, avoided her and did not give money regularly. Subsequently, she came to know that the accused was a married man and his wife and children used to reside at a rented house of Uttam Majumdar of Nilkuthidanga. The accused was a Primary Teacher of Haridih Primary School of Baghmundi. Thereafter she was compelled to return her paternal house and in the year 2024, she lodged complaint against the accused before Purulia Sadar Women PS. She personally drafted the complaint and thereafter, the same was typed. She put her signature thereon (**Exbt.P1**). Police took her to Deben Mahato Government Medical College and Hospital, Purulia. She was medically examined by the doctor of Deben Mahato Government Medical College and Hospital, Purulia with her consent. She put her signature on a consent form as well as medical examination report (**Exbts. P2/1 and P3/1** respectively). Police took her before Ld. Magistrate of Purulia Sadar Court (**Exhibit P4**) and her signature (**Exbt. P4/1**). Police seized her wearing apparels as produced by her by preparing a seizure list in presence of witnesses. She put her LTI thereon. Police also seized one copy of original medical document of doctor Kamal Kumar Narsaria of herself by preparing a seizure list wherein she put her LTI. Subsequently, the said medical document was returned to her by a executing a zimma bond by putting her LTI. **In her cross examination**, she stated that she could not say the exact date of her marriage. Her son Suman

Mondal used to study in Mamatamoyee Bidyamandir under Hura P.S. The address of her matrimonial house is at village Tanginoyada under Hura P.S. The accused also resides at village Tanginoyada. They some time visited the house of Sunil Mondal and Sefali Mondal who were the uncle and aunt of the accused. She along with her family members were present in the occasion of marriage of Bharati, cousin (kakar meye) of the accused. She had good relation with her husband. She lodged a police complaint being No.146/22 dated 16.08.2022 u/s 498A/323/506 IPC against her husband. She admitted that she did not get any divorce decree till date. She could not recollect the place where the complaint was typed. She could not recollect whether she discussed with anybody about her relation with the accused.

12. **The P.W. 2**, in her examination-in-chief, she deposed that in the month of September 2022, the V.G along with accused with one children came and took rent of her house at Napitpara. They stayed there for one month as husband and wife.

13. **The P.W. 3 to P.W. 7**, in their examination-in-chief, they deposed that they put their signatures on their respective seizure lists and proved their signatures during their evidence which had been marked as exhibits (Exbt.P5/1, P5/2, P6/1, P2/2 and P3/2, P6/2, P6/3, P7/1 respectively).

14. **The P.W. 8 is the father of the defacto complainant/V.G of this case.** In his examination-in-chief, he deposed that the accused called his elder daughter and accordingly, she came at Manbazar and they both stayed in a room of Manbazar for two months. After two months they both came to Purulia and stayed in a room for one year. The accused told his daughter was unmarried and promised her to marry. Subsequently, the accused refused to marry her. He proved his signature on the seizure list by which wearing of his elder were seized. (Exbt. P8/1). **In his cross examination**, he stated that there was no divorce in between his elder daughter and son in law. The V.G had no intention to make contact with other man excepting her husband.

15. **The P.W. 9 is the mother of the defacto complainant/V.G of this case.** In her examination-in-chief, she deposed that accused called her daughter and

accordingly, she came at Purulia and they both stayed in a rented room of Madan Moira as husband and wife. Thereafter, they both went to Manbazar and stayed in a rented room. Thereafter, they both came to Purulia and stayed there. She could not identify the accused. **In her cross examination**, she stated that her husband maintained her and her son. She did not state the alleged incident to anybody. As per request of her daughter, she was compelled to depose today.

16. **The P.W. 10 (Medical Officer)**, in his examination-in-chief, he deposed that on 23.02.2024 and 02.03.2024 he was posted at Deben Mahato Government Medical College and Hospital, Purulia. Dr. Tapas Sinha was his colleague. She examined the V.G with her consent and after examination, he prepared report (Exbt.P2 and P3 respectively). On 02.03.2024, he examined the accused with his consent and after examination, he prepared report (Exbt.P9 and P10 respectively). **In his cross examination**, he stated that in Exbt.P3 doctor opined that there was no sign of use of force and there was no evidence of injury marks over the body and private parts of the V.G.

17. **The P.W. 11 (Investigating Officer)**, in her examination-in-chief, she deposed that on 23.02.2024 she was posted at Purulia Sadar Women P.S as LSI. The complaint was received by the then O.C, LSI Arpita Bhatta of Purulia Sadar Woman P.S with her signature and endorsement (Exbt.P1/1). She prepared the formal FIR and signed thereon (Exbt.P11). After being entrusted with the task of investigation she perused the FIR and examined the V.G and recorded her statement u/s 161 Cr.P.C. On 23.02.2024, she took the V.G to the Deben Mahato Government Medical College and Hospital, Purulia for her medical examination and she was medically examined there. She along with V.G visited the 1st P.O and prepared rough sketch map with index (Exbt.P12 series). She seized the wearing apparels of the accused, vaginal swab and smear of the V.G, urethral swab and smear of the accused, wearing apparels of the V.G, original medical documents of the V.L by preparing seizure lists with her signature (Exbt.P5, P6, P7, P8, P15 and P16 respectively). On 25.02.2024 she visited the 2nd and 3rd P.O and prepared rough sketch map with index (Exbt.P13 series and P14 series respectively). On 22.04.2024, she submitted charge sheet being No.9/2024 dated 22.04.2024 against the accused Samir Mondal u/s 417/376(2)(n) of IPC. **In her**

cross examination, she confirmed that whatever the V.G stated in her examination in chief had not stated earlier before her at the time of investigation.

18. This is the sum and substance of evidence of the prosecution.

19. The typed complaint (Exbt.P1) makes it clear that the accused promised the V.L to marry and on such promise, both used to stay at different rented houses as husband and wife. She subsequently came to know that the accused was a married person and he had his wife, one son, one daughter and they together reside at Nilkuthidanga. On 24.01.2024, they cohabited with each other for the last time at the house of Sonali Rakshit.

20. Ld. Advocate for the accused has submitted that the V.L and the accsued both are adult and married person. The accused used to reside at her matrimonial village Tanginoyada under Hura P.S. They knew each other very well. The V.L did not get divorce from her husband. In that case, the relationship, if any, in between them was consensual one. Hence, Ld. Advocate, thus, prayed for acquitting the accused.

21. On perusing the evidence of V.L (PW-1) and her parents (PW-8 and PW-9), I find that in the year 2015, she got married with Manas Kumar Mondal of Tanginoyada under Hura P.S. Out of wedlock she gave birth of a male child and his age was about 9 years. On 23.09.2022, accused took her and her child to the rented house of Sampa Paramanik of Napitpara, Purulia and they stayed there as husband and wife. The owner of the said rented house wanted to see their Aadhaar Card and then the accused shifted them to the rented house of Pintu Das at Sriram Colony in Manbazar. They stayed there for three months. On demand, accused did not want to pay rent and for that the owner told us to leave the rented house. During stay in the said house, the accused told her that he will marry her, if she divorce her husband and accordingly, divorce case was filed. Accordingly, the accused took them to the rented house of Shibu Kundu at Chatanipara, Purulia and stayed there as husband and wife for more than one year.

22. Considering her examination in chief, it appears to me that there is no evidence on record to show that the accused has used any threat, force or

coercion upon the victim at the time of cohabitation. They cohabited with each other on several occasions voluntarily or with her consent. They together stayed at different rented house as husband and wife.

23. In her 164 statement (Exbt.P4), she also stated that in the year 2022 the accused took her to Napitpara, then Sriram Colony, Manbazar and then Mistimahar and stayed with her in the rented house as husband and wife.

24. The cross examination of the V.L establishes that prior to the starting of their cohabitation, the V.L knew that accused was a married person. She deposed that the accused used to stay at her matrimonial village at Tanginoyada under Hura P.S. She along with her family members were present in the occasion of marriage of Bharati i.e. cousin of the accused. They visited the house of Sunil Mondal and Sefali Mondal who were the uncle and aunt of the accused.

25. PW-1 further admitted that she did not get any divorce decree till date. In such case, the allegation of promise of marriage does not arise at all.

A person cannot legally marry a second time while their first marriage is still active and undissolved by a formal court divorce or the death of the spouse. Here, both the marriage of V.L and the accused are still subsisting.

26. Considering the nature of the present case, it cannot be said that sexual intercourse in between them without her consent. The relationship, if any, in between them was consensual one. Here, the prosecution failed to establish section 375 of IPC.

27. In this regard, the Supreme Court India was pleased to observe that a consensual relationship based on a promise of marriage will not amount to the offence of rape.

28. From the evidence of attending doctor of V.L (PW-10) as well as medical examination report of the V.L (Exbt.P3), it transpires that after examination of the V.L, doctor opined that there was no signs of use of force and there was no evidence of injury marks over the body and private parts of the V.L.

29. PW-3 to PW-7 are the police-cum-seizure witnesses who proved their

respective signatures on their respective seizure lists and their signatures had been marked as exhibits.

30. PW-11 is the I.O of this case who stated all which she did not during her investigation and her act of submission of charge sheet on 22.04.2024.

31. On perusal of the cross examination of the I.O, I find that she completely contradicted the statement of the V.L which she deposed in her examination in chief. PW-11 candidly deposed that during investigation, PW-1 failed to mention in her statement u/s 161 Cr.PC about the involvement of the accused.

32. In the light of above discussion, I find that there is no cogent, trustworthy and corroborative evidence to show that at the relevant point of time, the accused committed rape upon the victim on promise to false marriage. As such, I am to hold that the prosecution has miserably failed to bring home the charges against the accused person.

33. As a result, the accused is entitled to be acquitted from this case.

34. **Both the points of consideration are accordingly answered in negative and disposed of.**

Hence, it is,

O R D E R E D

that the sole accused person facing trial, viz, **Samir Mandal (A-1)** is **found and held not guilty** for the offences punishable **under Sections 417/376(2)(n) of the I.P.C** and he is hereby acquitted from this case under Section 235(1) of the Cr.P.C.

The accused person be discharged from his bail bond and the surety be discharged after elapse of period of appeal.

The seized alat, if any, be disposed of in accordance with law after completion of period of appeal.

Dictated and Corrected by me.

Sd/-
Additional Sessions Judge,
Fast Track Court -I, Purulia.

Sd/-
Additional Sessions Judge,
Fast Track Court-I, Purulia.