

In the Court of Judge, Special Court & 2nd Addl. Sessions Judge, Alipore

Special Case No. 84/2022

CNR – WBSP01-004941-2022

Ref.: West Port PS Case no:75/2022 Dated : 08.04.2022

U/s 04 of the Protection of Children from Sexual Offence Act, 2012.

Present :Manas Ranjan Sanyal (JO Code - WB00666)

Judge, Special Court & 2nd A.S.J.,

Alipore, South 24-Parganas.

State Vs. Md. Shamim Khan @ Sonu & Ors

Order No.01

Dt.08.04.2022

Received the written FIR, formal FIR, Inspection Memo, Memo of arrest, check list, seizure lists dated 08.04.2022, retention prayer, a medical examination report of accused alongwith forwarding report and other documents.

Register the same as Special Case No.84 of 2022 u/s 04 of the Protection of Children from Sexual Offence Act, 2012.

Accused Md. Shamim Khan @ Sonu (27 years) is brought under arrest. He is taken into custody.

A bail petition has been has been filed on behalf of the accused by learned advocate Mr. Sarfaraz Hossain from Standing Counsel Panel of D.L.S.A, Alipore along with appointment letter.

Heard both sides.

Learned advocate moves bail application on behalf of accused and submits that accused is innocent and he has been falsely implicated in this case. The allegation levelled against him are false, fabricated, concocted and baseless. No bail prayer is pending or rejected before any higher forum. Accused may be enlarged on bail imposing any terms and conditions.

Learned Special P.P raises objection.

Perused the materials on record and case diary.

Considering the gravity of the allegation and initial stage of investigation bail prayer of accused Md. Shamim @ Sonu stands rejected.

I.O has made prayer for further P.C of this accused till 19.04.2022 for the purpose of investigation. He has also made prayer for recording statement of the VG u/s 164 Cr.P.C and her medico-legal examination report as well as of the accused.

Heard learned Special P.P as well as the I.O. Perused the prayers.

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Prayers of the I.O are considered and allowed for the purpose of investigation.

Accused Md. Shamim Khan @ Sonu is remanded to police custody till 13.04.2022. I.O is further directed to observe the guidelines of the Human Right Commission and direction of the Hon'ble Supreme Court regarding police custody of the said accused person. I.O is also directed to take all necessary steps for medical check-up of the accused at the regular intervals and not to make any kind of torture during further P.C period.

The identity of the minor victim girl is required to be kept confidential as per provisions of **Sec 33 (07) of POCSO Act, 2012** as well as **under the direction of the Hon'ble Supreme Court in Nipun Saxena Vs Union of India** and **the direction of the Hon'ble High Court, Calcutta in Bijoy @ Guddu Das Vs The State of West Bengal** and also in **Prabir Bhuian Alias Prabir Bhuinyan Vs The State of West Bengal**.

Accordingly, I.O is directed to take care and to take necessary steps so that the identity of the victim girl is not disclosed during the investigation of this case.

Learned A.C.J.M., Alipore is requested to record the statement of victim girl u/s 164 Cr.P.C either personally or by deputing any other Magistrate within 48 hours following the procedure as laid down in section 25 and 26 of the POCSO Act, 2012 and to forward the same to this Court without undue delay. In view of the direction of the Hon'ble High Court, Calcutta vide Judgment dated 16.12.2021 delivered by the Hon'ble Justice Bibek Chawdhuri in **CRA 517 of 2017** (Prabir Bhuian Alias Prabir Bhuinyan Vs The State of West Bengal) the learned Magistrate is also requested to take care and to take necessary steps so that the identity of the victim girl is not disclosed during recording of the statement of the victim girl.

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The I.O. of this case is directed to take further instruction from the learned Magistrate regarding the production of the victim girl for recording her statement.

Supply a copy of the statement to the I.O as and when the same is received.

Inform the learned Additional Chief Judicial Magistrate by sending a copy of this Order along with photocopy of written complaint and formal F.I.R.

The Professor & Head of Department of Forensic Science and State Medicine, Calcutta Medical College & Hospital, Kolkata

is requested to make necessary arrangement for medical examination of the victim girl by a woman doctor and send the report before this Court as soon as possible. The examination shall be done following the procedure laid down by section 164A of the Criminal Procedure Code, 1973 (2 of 1974) and section 27 of the POCSO Act, 2012. The examination of the girl should be done in presence of parents of the child or any other person in whom the child reposes trust or confidence. If for any reason, the parents or the person in whom the child has confidence cannot be present in that event, medical examination shall be conducted in presence of a woman nominated by the Head of the Medical Institution.

The Professor & Head of Department of Forensic Science and State Medicine, Calcutta Medical College & Hospital, Kolkata

is also requested to conduct the medico-legal examination on the accused and send the report as early as possible.

The I.O is also directed to produce accused person and victim girl to concerned hospital on the schedule date

Let the seizure lists dated 08.04.2022 be kept with the case record. I.O is directed to retain the seized the articles in accordance with law.

To 13.04.2022 for production of accused from P.C and I.O's report.

D/c by me.

Sd/-Manas Ranjan Sanyal
Judge, Special Court &
2nd A.S.J., Alipore.

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