

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

Special Case No. 222/2025

CNR WBSP01-005887-2025

Ref.: Rabindranagar PS Case no: 137 of 2025

U/s 137(2)/140(3) BNS read with sec. 6 of the Protection of Children from Sexual Offence Act, 2012.

Present : Rimpa Roy (JO Code - WB00822)
Judge, Special Court & 2nd A.S.J.,
Alipore, South 24-Parganas.

Order No.8

Dt. 04.06.2025

Accused Putul Yadav, Shakti Yadav and Chhariya Devi Yadav @ Chatiya Devi on Court Bail are present by filing hazira.

Accused Govinda Yadav on Court bail is absent by filing petition.

Record is taken up for passing order in respect of the petition filed by the IO on 02.05.2025 for cancellation of bail in respect of accused Gobinda Yadav.

IO filed an application for cancellation of bail contending inter alia that on the basis of a written complaint filed by Abdul Khalek the instant case was initiated. It was stated in the said complaint that the 14 years old minor daughter of the complainant left the house but did not return home. During investigation of the case the present IO recovered the said minor victim girl and arrested the accused person. He stated that the accused was released on bail by the Ld. ACJM, Alipore on 24.03.2025. He further submitted that after considering the statement of the victim girl u/Sec.183 BNSS and her medical examination report the IO prayed for adding Sec.6 of the POCSO Act and Sec.61(1)/65(1) BNS and after considering the same Ld. ACJM transmitted the case record to this Special Court under POCSO Act . He has prayed for cancellation of the bail as graver section under sec 6 POCSO Act has been added .

It appears from the record that the Ld. ACJM, Alipore transmitted the record with the observation that the Special Court under the POCSO Act has the exclusive jurisdiction in

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this regard. It was also observed by the Ld. ACJM that some more penal offences were added which were not only graver in nature but also exclusively triable by the Special Court and directed the accused to appear before this Court and pray for bail in the Special Court.

Accused also filed an application for continuation of same bail granted by the Ld. ACJM, Alipore .

In course of hearing I.O prayed for cancellation of bail.

Ld. Special P.P submitted that Sec.6 of the POCSO Act and Sec.61(1)/65(1) BNS were added in this case as such the offence became graver in nature. She has prayed for cancellation of the bail granted by the Ld. ACJM earlier .

Ld. Advocate for the defacto complainant prayed for cancellation of bail as the offence became graver in nature .

In support of his contention he relied upon the following decisions reported in;

1. Kaushalendra Pratap Singh vs State NCT Delhi & Anr
2. Ms.X vs The State of Maharashtra in c/w 822-823/ 2023 .
3. Ajwar vs Waseem and anr reported in [2024] 5 S.C.R 575 .

Ld. Advocates for the accused persons raised strong objection against the prayer for cancellation of bail of accused . It was argued by the Ld. Advocate for the accused that the accused was granted bail by the Ld. ACJM after considering all the materials available in the CD. He argued that the accused had not misused the liberty of bail and had not threatened the victim or the witnesses, therefore , the bail should not be cancelled .In support of their contention Ld. Advocates for the accused referred the following decisions ;

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1. Sayantan Chatterjee Petitioner vs The State of West Bengal and anr .

2. Bhuri Bai vs State of Madhya Pradesh in Criminal Appeal No. 1972 of 2022.

I have heard the submissions of Ld. Advocate for the accused, Ld. Advocate for the defacto complainant , I.O and Ld. Special P.P

Perused the written complaint , CD , materials available on record and decisions referred by the Ld. Advocates for both sides .

On careful perusal of the written complaint I find the instant case was initiated against accused Govinda Yadav by Rabindranagar P.S u/sec 137/140(3) BNS on 22.3.2025 . The accused was arrested on 24.3.2025 and produced before the Ld.ACJM , Alipore . It reveals from the record of the Ld. ACJM , Alipore that the accused Gobinda Yadav was released on bail on the very date of his arrest. It appears from the order dated 24.3.2025 that the CD was not produced on that day but considering the statement of the Victim girl bail was granted to the accused .

It reveals from the record that the statement of the victim girl was again recorded by the Ld.ACJM, Alipore on the basis of the prayer of the IO .

It transpires from the record of Ld. ACJM , Alipore that IO made prayer before the Ld. ACJM for adding sec 6 of the POCSO Act and after adding sec 6 POCSO Act that the Ld. ACJM transmitted the case record to this Court specially designated to deal with the offences under POCSO Act vide order dated 28.4.2025 with the direction to the accused Gobinda Yadav ,already **on bail to appear before this Court and pray for bail with the observation that penal offences**

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added were not only graver but also exclusively triable by the Special Court under the POCSO Act .

I have carefully gone through the decisions referred by the Ld. Advocate for the accused and Ld. Advocate for the defacto complainant. It is settled proposition of law that bail once granted, ought not be cancelled in a mechanical manner. However, the order can be cancelled if there are serious allegations against the accused or he has misused the liberty of bail . In fact very cogent ground is required for cancellation of bail .

The instant case was initially started u/sec 137/140(3) BNS and the accused was granted bail by the Ld. ACJM on the very date of arrest without perusal of the CD. Subsequently, on the basis of the statement of the victim girl sec 6 of the POCSO Act was added .

I have meticulously gone through the CD and materials available on record . It transpires from the statement of the victim girl recorded by Ld. Judicial Magistrate 10th Court that she had made specific allegation of repeated penetrative sexual assault against the accused Gobinda Yadav .

The Ld. ACJM, Alipore in its order dated 28.4.2025 directed the accused Gobinda Yadav to appear before this Court and pray for bail. But it transpires from the record that the accused neglected and failed to appear before this Court on 14.5.2025 and 22.5.2025 in spite of direction to appear before this Court. The accused is absent even today. Such conduct of the accused Gobinda Yadav clearly goes to show that **he has misused the liberty of bail.**

Thus, having considered the heinous nature of crime against

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a minor victim girl and considering its social impact I am inclined to allow the prayer for cancellation of bail .

Accordingly, the bail granted to the accused Gobinda Yadav stands cancelled .

Issue W/A against accused Gobinda Yadav.

To **07.08.2025** for appearance and ER of W/A in respect of accused Gobinda Yadav.

Return CD.

D/c by me.

Sd/-

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

Sd/-

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