

In the Court of Additional District & Sessions Judge
01st Court, Alipore, South 24 Parganas

ST-02 (01) 2025

SC-11 (05) 2024

R-197/2024

CNR No: WBSP01-005977-2024

Present : Sarajit Mazumder, [J.O Code: WB00646]
Additional District & Sessions Judge,
01st Court, Alipore, South 24 parganas.

State

– Versus –

1) Souvik Dasmal @ Sunny @ Akash, 2) Vikram Das @ Vikramaditya @ Saptarshi, 3) Ayan Das @ Rohit Roy, 4) Susanta Mondol @ Gera, 5) Biswajit Das 6) Sushmita Biswas, 7) Biswajit Das @ Bapi Pal, 8) Sukhdeb Sukumar Sutradhar, 9) Bablu Biswas and 10) Monali Chakraborty ('D')

Order No.01, dated 16.01.2025

Today is fixed for consideration of charge.

Accused persons namely **1) Souvik Dasmal @ Sunny @ Akash, 2) Vikram Das @ Vikramaditya @ Saptarshi, 3) Ayan Das @ Rohit Roy, 4) Susanta Mondol @ Gera, 5) Biswajit Das 6) Sushmita Biswas, 7) Biswajit Das @ Bapi Pal, 8) Sukhdeb Sukumar Sutradhar, 9) Bablu Biswas and 10) Monali Chakraborty ('D')** are produced from J/C. They are taken into judicial and remanded to J.C till date.

Application filed on behalf of accused **1) Souvik Dasmal @ Sunny @ Akash** u/s 227 of Cr.P.C corresponding to Section 250 of BNS is taken up for hearing.

Heard the learned advocate for accused **Souvik Dasmal @ Sunny @ Akash** who submits for discharge of this accused on the grounds that this case is filed to get rid from a case of gang rape filed by one of the accused of this case. He further submits that from the videograph it would be clear that one of the persons so confined was uttering for help through the window after 28 hours of the alleged incident claiming that they had come there for inviting for the marriage ceremony of their elder brother and that in the written complaint of this case the threatening for ransom at the point of knife is not mentioned which is itself sufficient to demolish the prosecution case. According to him by making further statement prosecution tried to fill up the lacuna.

He also argues that no such medicine is seized from which it can be assumed that actually medicine was administered which could make two healthy and hearty persons unconscious for 28 hours. He also submits that only chloroform was recovered from one of the accused persons. He further argues that in this case it is suggested, by the I.O that the allegation of gang rape is fabricated even prior to the conclusion of the investigation of that case. He further points out that neither examination of urine report is there to suggest what drug was administered to keep them 28 hours unconscious.

He also describes the duty of court at the time of charge hearing. In support of his contention he referred the decision of the Hon'ble Supreme Court of India cited in **(1979) 3 SCC 4**.

Contd....Order No.01, dated 16.01.2025

Learned P.P-in-charge submits that **Souvik Dasmal @ Sunny @ Akash** disclosed his identity and took active part in this. There was pre-arranged plan and the demand for money of Rs 5 Crore. The windows of the room was sealed from inside using thermocol so that sound may not come out through the windows. Key of the black Volvo car was recovered from one of the accuseds but prior to that this accused traveled by that car. This person was identified by the person who sold adulterated oil. He posed a question what prompted the person to purchase such oil from such a seller when petrol pumps are here and there throughout Kolkata. The alleged victim of gang rape was in that Volvo car. This accused is identified by both the victim of this case. Caretaker of the flat and other witnesses have also identified this accused. Pursuant to the statement of this accused two strips of tablets are recovered. This accused dealt with business of medicine. The medicines recovered so far have been sent to drug controller for examination.

He also pointed out that one of the co-accused of this case has committed suicide in Bombay disclosing everything in her suicidal note. The case of gang rape has ended in final report. He further submits that prima facie evidence only is required for framing charge.

In reply learned advocate for accused submits that alleged victim of the gang rape could not be seen in any videograph.

Perused the case diary. Considered.

It is needless to mention here that at the time of framing of charge court may look into the evidence on record that too for limited purpose only to find out whether there is prima facie case against the accused.

In this case one Smt. Baishakhi Bhanu Das has not been charge sheeted being dead. That accused has committed suicide describing everything in her suicidal note. This suicidal note itself is sufficient for framing of charge against this accused. That apart the case of gang rape recorded against the de facto complainant and his driver at the instance of one of the accused of this case has ended in final report.

Whether the seized medicine are sufficient to keep the victim of this case unconscious for 28 hours and is there any examination of urine or whether the alleged victim of rape could be seen in the black Volvo car along with **Souvik Dasmal @ Sunny @ Akash** is a question of trial. It be pointed out that as per prosecution this accused has medicine shop.

Considering the other material in the CD I find sufficient materials against **Souvik Dasmal @ Sunny @ Akash**. As such I am not inclined to discharge this applicant u/s 227 of Cr.P.C corresponding to Section 250 of BNS. Accordingly, the application of accused **Souvik Dasmal @ Sunny @ Akash** filed u/s 227 of Cr.P.C corresponding to Section 250 of BNS is dismissed on contest without cost.

Hence the case record is taken up for consideration of charge.

Contd....Order No.01, dated 16.01.2025

Learned advocate for the defence argues that prior to framing of charge prosecution is to disclose the witness to be examined and the documents to be relied upon in terms of section 226 of Cr.P.C.

Learned P.P-in-charge in reply to the question of section 226 of Cr.P.C submits that they are going to rely all the statements, documents and the entire C/S.

At this stage learned advocate for accused Bikram Das and accused **Monali Chakraborty ('D')** submits that some of the accused are left unrepresented. Learned advocate for Souvik Dasmal @ Sunny @ Akash also submits that few accused are left unrepresented.

Accused Ayan Das, Biswajit Das @ Bapi, Bablu Biswas, Sukhdev Sutradhar and Sushmita Biswas submit that they have no advocate to represent them.

No one can be left unrepresented. As such Secretary, District Legal Services Authority is directed to appoint one competent learned advocate to represent these accused persons in this case.

Let a copy of this order be sent to the Secretary, District Legal Services Authority, Alipore, South 24 Pgs for information and taking necessary action.

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corrected on the system.

Sd/-Sarajit Mazumder
Additional District and Sessions Judge,
01st Court, Alipore, South 24 parganas.

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Later

It is now 4.00 PM, learned advocate namely Senjuti Chakraborty appointed by DLSA, South 24 Pgs, Alipore to defend accused Ayan Das, Biswajit Das @ Bapi, Bablu Biswas, Sukhdev Sutradhar and Sushmita Biswas, appeared before this court along with appointment letter. Let the same be kept with record.

The case record is taken up for consideration of charge.

Ld. P.P. in-charge opens his case by describing the charge brought against the accused persons. He submits that this is a case of ransom and dacoity. These accused persons called Subhojit Mondal who is a businessman cum film producer, and kidnapping him demanded for ransom of Rs.5 Crore. To misguide the investigation these accused persons conspiring together filed a case of gang rape against the de facto complainant and his driver showing **Monali Chakraborty ('D')**, victim of that case. **He proposes for framing of charges for offences punishable under section 342, 323, 328, 364, 365, 368, 389, 395, 397 and 201 read with section 120B of Indian Penal Code.** And described by what evidence he proposes to prove the guilt of the accused persons.

Learned advocate for the accused Bikram Das and accused **Monali Chakraborty ('D')** submits that unless examination report is there charge under section 328 of Indian Penal Code cannot be framed.

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Learned advocate for the remaining accused persons raises objection.

Perused the materials on record. Considered.

I would like to point out that for framing of charge in respect of any particular offence court shall be of opinion that there is ground for presuming that the accused has committed the offence. In this case there is sufficient material for such presumption and as such it cannot be accepted that without examination report charge under section 328 of Indian Penal Code cannot be framed.

After hearing submissions of Ld. P.P. in-charge and Ld. Lawyer for the accused persons as well as on consideration of materials on record, I am of the opinion that there is ground for presuming that accused persons namely **1) Souvik Dasmal @ Sunny @ Akash, 2) Vikram Das @ Vikramaditya @ Saptarshi, 3) Ayan Das @ Rohit Roy, 4) Susanta Mondol @ Gera, 5) Biswajit Das 6) Sushmita Biswas, 7) Biswajit Das @ Bapi Pal, 8) Sukhdeb Sukumar Sutradhar, 9) Bablu Biswas and 10) Monali Chakraborty ('D')** have committed the offences punishable **under section 120B (1), 342/149, 323/149, 328/149, 365/149, 368/149, 389/149, 395/149, 397/149, 364A/149 and 201/149 of Indian Penal Code.**

Accordingly, charge is framed against accused persons namely **1) Souvik Dasmal @ Sunny @ Akash, 2) Vikram Das @ Vikramaditya @ Saptarshi, 3) Ayan Das @ Rohit Roy, 4) Susanta Mondol @ Gera, 5) Biswajit Das 6) Sushmita Biswas, 7) Biswajit Das @ Bapi Pal, 8) Sukhdeb Sukumar Sutradhar, 9) Bablu Biswas and 10) Monali Chakraborty ('D')** for offences punishable **under section 120B (1), 342/149, 323/149, 328/149, 365/149, 368/149, 389/149, 395/149, 397/149, 364A/149 and 201/149 of Indian Penal Code.**

Formal charge is accordingly prepared and kept in the record.

The contents of the charge so framed is read over and explained to the accused persons, to which on being asked whether they plead guilty of the offences charge with or claim to be tried, each of them pleads not guilty by saying 'Ami Nirdosh' and claims to be tried.

I.O is directed to remain present before this Court with the CD on the date fixed.

Fix **24.02.2025** for production of accused persons and evidence of photographer.

Issue summons accordingly.

Prosecution to take steps for production of the witness and alamats, if any, on the date fixed.

Typed to the dictation directly;
corrected on the system.

Sd/-Sarajit Mazumder
Additional District and Sessions Judge,
01st Court, Alipore, South 24 parganas.

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