

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

Special Case No. 95/2021

CNR – WBSP01-005984-2021

Ref.: Karaya PS Case no: 139/21 Dated : 25.05.2021

U/s 363 of I.P.C and Sec 6 of the Protection of Children from Sexual Offence Act,
2012.

**Present : Prasant Chowdhury,
Judge-in-Charge, Special Court
2nd A.S.J, Alipore, South 24-Parganas
State Vs. Shahnawaz Khan @ Aryan & Ors**

Order No.01

Dt.31.05.2021

Received the case record alongwith F.I.R bearing Karaya PS Case no: 139/21 Dated : 25.05.2021 and other documents from learned Chief Judicial Magistrate, Alipore.

Register the same as Special Case No.95/2021 u/s 363 of I.P.C and section 6 of the Protection of Children from Sexual Offence Act, 2012.

Accused Shahnawaz Khan @ Aryan and Sohail Ali are produced from P.C today. They are taken into custody.

I.O prayed for further P.C of both the accused persons namely Shahnawaz Khan @ Aryan and Sohail Ali.

At this stage learned advocate for accused Shahnawaz Khan @ Aryan files a petition stating that the accused Shahnawaz Khan @ Aryan is a minor as his date of birth is 28.07.2005 as per his birth certificate and Aadhar Card. Learned advocate for the accused submitted the xerox copy of birth certificate, Aadhar Card and xerox copy of the Progress Report of Albang Public School and other document in support of his contention. Learned advocate for the accused also submitted original Aadhar Card, original birth certificate, original fees book and progress report of the accused Shahnawaz Khan @ Aryan for perusal of the Court. He has prayed for passing necessary order in respect of accused Shahnawaz Khan @ Aryan before the JJB.

Heard the accused Shahnawaz Khan @ Aryan in person and the learned advocate for the accused and perused the documents.

The accused stated that he is aged about 15+years. The original Aadhaar Card and original birth certificate of this accused Shahnawaz Khan @ Aryan also show that the date of birth of accused is 28.07.2005 which prima facie suggest that the accused Shahnawaz Khan @ Aryan is minor aged about 15+ years. Considering all these aspects it appears to me that accused Shahnawaz Khan @ Aryan is a minor and a JCL being aged 15+ years. Accordingly the P.C prayer of the accused Shahnawaz Khan @ Aryan is considered and rejected.

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Accordingly, the I.O is directed to produce the JCL Shahnawaz Khan @ Aryan before the JJB at once for further proceeding against him and till the time of the production of JCL Shahnawaz Khan @ Aryan before the JJB, the JCL Shahnawaz Khan @ Aryan be kept at Dhurva Ashram, Ariadaha.

Let a copy of this order be sent to the Superintendent, Dhurva Ashram, Ariadaha and the I.O for information and necessary compliance.

Let the case record be splitted and be sent to the learned Principal Magistrate, Juvenile Justice Board, Kolkata for further proceeding against the JCL Shahnawaz Khan @ Aryan.

IO is directed to produce the JCL Shahnawaz Khan @ Aryan before the J.J.B at once.

Heard the learned Special P.P-in-Charge in regard to the P.C of accused Sohail Ali. Perused the PC prayer of the I.O.

It appears that the further P.C prayer by the I.O has been forwarded by the Officer in Charge of the Karaya P.S, Kolkata. The P.C prayer of the accused person are not recommended by proper authority and accordingly, the P.C prayer of the accused Sohail Ali is considered and rejected.

No bail petition filed on behalf of the accused Sohail Ali.

He is remanded to J.C till 14.06.2021.

I.O has made prayer for recording statement of victim girl u/s 164 of Cr.P.C on 30.05.2021.

The prayer of the I.O dated 30.05.2021 is taken up for consideration.

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

Prayer of the I.O is considered and allowed for the purpose of investigation.

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.

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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 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. Learned Magistrate is also requested to record the statement of the witness 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.

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 statements to the I.O as and when the same is received.

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

To 14.06.2021 for production of accused Sohail Ali and I.O's report.

D/c by me.
Sd/-Prasant Chowdhury
Judge-in-charge, Special Court &
2nd A.S.J., Alipore.

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