

Special ST- 03(02)17
Special Case No.468/16

Order No.38
Dt. 14.10.2020

Accused Dilip Kumar Shaw @ Dilip Shaw is produced from J.C through V.C.S.
No witness is present.

Learned advocate moves bail application on behalf of the accused and submits that this accused is in custody since 12.12.2016. Three witnesses namely victim girl and her parents have been examined. Parents of the victim girl turned hostile. There are two medical documents on record, one is favouring the accused and other to the prosecution. It is settled principle that the view favouring the defence should be taken into consideration. He never moved any application before the Hon'ble High Court nor any application is pending for hearing.

Learned Special P.P raises objection and submits that the first medical report supports the prosecution case and second medical test was done after sixteen days of the incident and which the prosecution has challenged. Parents of the victim girl were harassed and forced as the consequences they turned hostile. Accused will not get benefit of the fact that second medical report does not support the prosecution case. He has to prove it during trial. Accused has committed heinous crime upon the girl aged about 09 years. She has strong objection against the bail application of the accused person.

It appears from the record that the accused was arrested on 13.12.2016. Charge has been framed u/s 376(2)(i) of I.P.C read with section 6 of POCSO Act, 2012. Three witnesses namely victim girl and her parents have already deposed before this Court. Other witnesses are mainly official witnesses who are yet to be examined. Court is functioning under the special circumstances due to spread of COVID-19 virus. There is less possibility of progressing trial in near future. Moreover, trial may not be affected if prayer of the accused is allowed. Because relevant witnesses have already been examined. Considering the above facts, bail application of the accused is allowed.

He may furnish bail bond of Rs. 2000/- (rupees two thousand only) with two registered sureties of Rs.1000/- (rupees one thousand only) each to the satisfaction of learned C.J.M Alipore.

If he is on bail, he shall appear before this Court on each and every date fixed. No earlier date is available due to ensuing long Puja Vacation, Christmas Vacation and many other pending custody trials.

If he fails to furnish bail bond, he shall be in custody till 24.01.2021.

Fix 24.01.2021 for appearance/production and evidence.

Prosecution to produce its witnesses.

D/c by me.

Sd/-
Ashutosh Sarkar
Judge, Special Court &
2nd A.S.J., Alipore.

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