

Special Trial No. 05 (09) of 2023

Special case No. 05 of 2023

(CIS- 05/2023)

Present: Sri Anirban Das (WB00691)

1st Addl. Sessions.Judge,Sealdah

Order No. 03 Dated: 17.11.2023

The accused Sadia Aziz, Noain Ghani, Suja Nuser Ghani and Sadia Afsa are produced from JC.

The accused Amina Perveen, who is on bail, is present.

Fresh vokatatnama was filed for the accused persons Noain Ghani, Suja Nuser Ghani, Sadia Afsa and Amina Parveen by Ld. Advocate Sk. Parvez and another vokatatnama was filed for the accused Sadia Aziz by Ld. Advocate Dipak Kumar Prahladka.

Let the said vokatatnamas be kept with the record.

Bail petition filed for the accused persons Noain Ghani , Suja Nuser Ghani and Sadia Afsa.

Heard Ld. Advocate for the said accused persons and Ld. Special PP.

The instant case is a case of trafficking of minor child and its impact is high in respect of the protection of the minor.

I think that if at this stage, any of the accused persons, who are in custody, be released on bail, the trial will be adversely affected.

It appears from the case record that in previous occations the bail prayer of these accused persons were rejected by this court and the same were lastly rejected by the Hon'ble High Court Calcutta in CRM (DB)/0003992/2023 and CRM (DB) 0003991/2023 on 12.10.2023.

It appears from the documents furnished by the Ld. Special PP and the IO that the Hon'ble Court has been pleased to reject the bail prayer of the accused persons Sadia Afsa and Noain Ghani in the said cases as mentioned above.

All the accused persons, who are facing trial from custody and for whom bail petition was filed stand on the same footing.

Accordingly, I am not at all inclined to release the accused persons namely Noain Ghani, Suja Nuser Ghani and Sadia Afsa on bail and prayer stands rejected.

Today the victim is present and the Ld. Special PP is ready to record her evidence but the Ld. Advocate for the accused persons namely Noain Ghani, Suja Nuser Ghani, Sadia Afsa and Amina Parveen made several

petitions which have no basis at all and they do not want to proceed with the case.

This court fixed the date for trial keeping in mind that the accused persons are in custody and prosecution is also ready to dispose of the matter.

Today by filing a petition prayer was made to supply the unrelieved documents in terms of Amended Rule 91A of Calcutta High Court Criminal (Subordinate Courts) Rules.

It was submitted by the Ld. Special PP that the documents already supplied to the accused persons U/s 207/208 Cr.P.C will be relied upon by the prosecution during trial and there are no documents that are not relied upon by the IO.

Heard both sides.

I think that petition for directing the IO to bring on record the unrelieved documents can not be considered at this stage and the said petition can only be considered at the time of examination of the witnesses and accordingly, the said petition is not disposed of at present and the same be kept with the record for future consideration.

My attention was drawn by the Ld. Advocate for the accused persons namely Noain Ghani, Suja Nuser Ghani, Sadia Afsa and Amina Parveen about the decisions of Hon'ble Delhi High Court as passed in CRL. REF No. 02 of 2016 on 04.08.2018, the decision of Hon'ble Madras High Court as reported in AIR 1968 Mad 117, the decision of the Hon'ble Apex Court as passed in Criminal Appeal No. 1474 of 2010.

In page No. 12 of the petition for bail, the Ld. Advocate for the said accused persons had mentioned several decisions of the Hon'ble Court but during hearing reliance was placed upon the decisions mentioned in the above paragraph.

I have gone through the said decisions.

The main allegation of the Ld. Advocate for the accused persons is that the IO had illegally filed the charge sheet by curtailing the the liberty of the accused persons.

On considering the fact that cognizance was taken and charge was framed, I think that at this stage, there is no ground to consider that the charge was wrongly framed as this court has no power to review or recall its own order.

The points which are raised by the Ld. Advocate for the accused persons can only be considered at the time of trial.

Accordingly, I am not in a position to accept the said submission of the Ld. Counsel.

As per Provision of POCSO Act the victim should not be returned without examination and today this court as well as the prosecution and the Ld. Advocate for the accused Sadia Aziz were ready to examine the victim but it is the Ld. Advocate for the accused persons Noain Ghani, Suja Nuser Ghani, Sadia Afsa and Amina Parveen who is very much reluctant to take part in the process of trial.

The court is handicapped for such unfortunate attitude of the Ld. Defence counsel for the accused persons Noain Ghani, Suja Nuser Ghani, Sadia Afsa and Amina Parveen.

However, to protect the interest of the accused persons the case is adjourned for this day.

The victim is released without examination.

Fix **11.12.2023** for examination of the victim girl.

Dictd & Corttd by me

1st A.S.J., Sealdah

(Anirban Das) WB0691
Addl. Sessions Judge,
1st Court, Sealdah