

Special Trial No. 05 (09) of 2023
(CIS- 05/2023)

Present: Sri Anirban Das (WB00691)
1st Addl. Sessions Judge, Sealdah

Order No. 20 Dated: 02.08.2024

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

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

Ld. Advocates for all the accused persons are present.

Ld. Special PP is present with the witness the mother of the victim and her cross examination is concluded and she is discharged.

Fix **05.09.2024 and 06.09.2024** for evidence of CSW 2 and 3.

Ld. Advocate Mr. Suman Sarkar appeared to protect the interest of the victim, as appointed by DLSA.

A fresh vokalatnama is filed for the accused Sadia Aziz

Let it be kept with the record.

Bail petition filed for the accused Sadia Aziz.

Heard Ld. Advocate for the accused and Ld. Special PP and the Ld. Advocate for the victim as appointed by the DLSA.

It was submitted by the Ld. Counsels that the allegations of the case took place at Kishanganj and the present accused is not involved with the incident in any manner.

It was also submitted that this accused can not be roped with the allegations of POCSO Act and accordingly, the charge of section 370 IPC will not be attracted in case of this accused.

It was also submitted that this accused never applied for bail before the Hon'ble Apex Court or the Hon'ble High Court, Calcutta.

It was submitted that this court has ample power to consider the prayer for bail even in the cases where the bail prayer of co accused persons was rejected either by the Hon'ble Apex Court or the Hon'ble High Court, Calcutta.

It was also submitted that the Hon'ble Apex Court also enlarged the accused on bail even in very heinous nature of crime and prayer was made to follow the ratio of the said decision of the Hon'ble Apex Court and the Hon'ble High Court.

The decision of the Hon'ble Apex Court as reported in *2024 SCC online SC 1755, in SLP (CRL) 3401 of 2003, decision of the Hon'ble High Court, Calcutta as passed in CRM 1579 of 2016, CRM 7447 of 2016 and the decision of the Hon'ble Oridha High court reported in 1993 (1) OLR 298* are placed before me.

The Ld. Special PP raised strong objection and attracted my attention to the particular portion of evidence of the victim and her version recorded U/s 164 Cr.P.C.

It is fact that in this case two statements of the victim were recorded U/s 164 Cr.P.C in a gap of around one month.

I have perused the evidence of the victim and her mother line by line.

It appears prima facie from the evidence adduced by prosecution that this accused acted as a link person between the other accused persons and the offence committed in this case is the outcome of that link.

It also appears that charge was framed U/s363/365/370 IPC read with section 120B IPC. Moreover, charge was also framed against the accused persons for offence U/s 17 of POCSO Act.

I have already stated on the basis of evidence on record that a link of this accused was primarily established in this case and the offence so far committed by the accused persons is no doubt heinous in nature and all the accused persons primarily found to be the part of the a racket.

I have considered the decision of the Hon'ble Apex Court and the Hon'ble high Court, Calcuta. In this case the bail petition for other accused persons were rejected several times.

In my view, the ratio of the decisions referred by the Ld. Counsel for the accused person are not applicable in the context of this particular case.

Accordingly, I do not find any reason to release the accused on bail and the prayer stands rejected.

To date
D/C by me

ASJ, 1st Court, Sealdah

(Anirban Das)/WB0691
Addl. Sessions Judge, 1st Court,
Sealdah, 24-Pgs.(S).