

Special Trial No. 03 (07)2025
Special Case No. 35 of 2025
Sinthi PS case No. 44 dated 25.05.2025

Order no. 2 dated 25.08.2025.

Accused person **Abhi Dolui** is produced from JC.

Ld. Advocate for the accused is present.

Ld. Special PP is present.

The Ld. Advocate for the complainant filed a petition for alteration of charge U/s 216 Cr.P.C and prayer was made to alter the charge to section 10 of POCSO Act instead of section 8 of POCSO Act.

The Ld. Special PP supports the submission and submits that the age of the victim was 10 years at the time of incident and as such, the provision of section 9(m) of POCSO Act be attracted in this case and accordingly, the charge should be under section 10 of POCSO Act.

It was the submission of the Ld. Special PP that at the time of framing of charge due to inadvertence, the same was not noticed by the Ld. Special PP.

I have perused the CD.

It is clear that the victim was less than 12 years of age at the time of incident and as such, charge should be under section 10 of POCSO Act and the same can be altered by applying the power U/s 216 Cr.P.C (239 BNSS).

It also appears that the accused will not be prejudiced in any manner if the charge be altered as the punishment of both the sections are same.

Accordingly, the altered charge U/s 10 of POCSO Act is read over and explained to the accused and accused pleaded not guilty and claims to be tried.

Separate charge from be kept with the record.

The victim is present in court and she is examined, cross examined in full and discharged as PW-1.

The statement of the victim U/s 183 BNSS is marked as Exbt. P-1(1).

Fix **31.10.2025** for further evidence (as puja vacation intervenes).

Bail petition filed for the said accused.

Heard Ld. Advocate for the accused, Ld. Special PP and Ld. Advocate for the victim.

It was submitted by the Ld. Advocate for the accused that no notice

under section 35 BNSS was served upon the accused and mother of the accused denied to place her for medical examination. It was also submitted that there is no corroborative evidence and the provisions of section 24 of POCSO Act was violated.

My attention was drawn to the decision of the Hon'ble Apex Court in Arnesh Kumar case.

I have considered the submission of the Ld. Advocate.

It appears from the evidence that the brother of the victim who was a child of 7 years of age was with the victim at the time of alleged incident.

He is yet to be examined along with the mother of the victim.

So, at this stage, it can not be said that there is no corroborative evidences.

In my view, if the accused be released at this stage, the safety and security of the other vital witnesses may be challenged.

Considering all the circumstances, I am not inclined to release him on bail and the prayer stands rejected.

D/C by me

ASJ, 1st Court, Sealdah

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