

Special POCSO Case No. 73/2025
(J.O.Code-WB00875)

Order No. 17

Date: 09.04.2026

Today is fixed for physical production of the accused person namely Surjya Middy @ Sukdeb from JC and supply of copies and hearing of bail petition.

Accused Surjya Middy @ Sukdeb is physically produced from JC and he is represented by his Ld. Counsel.

Ld. Spl. PP in charge namely Smt. Haimabati Sinha Barma files hazira for the State.

Notice upon DC/VG duly served.

The case record is taken up for bail hearing.

During hearing, at the very outset, Ld. Defence Counsel submits that no bail petition in respect of this accused in connection with this case is pending or rejected by any upper forum. It is submitted that the accused is in custody since 08.11.2025. VG is 15 years old. The investigation is already over and charge sheet submitted. There was love affairs in between VG and the accused and no force was applied on part of this accused upon VG, which reflects from her statement given before Ld. Magistrate. It is further submitted that the VG has given birth to a child. The allegation levelled against the accused is totally false. Hence, is the prayer for bail of the accused.

Ld. Spl. P.P. in-charge opposed the bail petition and submits that V.G. is minor aged 15 years and her consent if any is no consent at all. Hence, is the prayer for rejection of bail.

I have heard both sides and have gone through the materials in CD. Investigation is already over. I have perused the medical document as well as the statement of VG recorded by Ld. Magistrate. It appears from the materials on record that the instant case was initiated by the father of VG.

In POCSO cases the most crucial factor while granting bail is the victims age at the time of the offence. In this case the victim is 15 years old at the time of commission of alleged offence. For offences under POCSO Act in cases of hearing of bail petition, it is required to take into consideration various factors primarily including the nature of the offence, the heinousness of the crime, the punishment involved and the role of the accused. In (2022) 8 SCC 559, the Hon'ble Apex Court has been pleased to note the considerations for a Court while granting bail to an accused that are as follows:- 1. Whether there is any prima-facie or reasonable ground to believe that the accused had committed the offence, 2. Nature of gravity of accusation, 3. Severity of the punishment in the event of conviction, 4. Danger of the accused absconding or fleeing, if released on bail, 5. Character, behaviour, means, position and standing of the accused in society, 6. Likelihood of the offence being repeated, 7. Reasonable apprehension of the witnesses being influenced and 8. Danger of Course of justice being thwarted by the grant of bail. The Hon'ble Court has also been pleased to lay down the following considerations in addition to the aforesaid considerations that should be kept in mind while considering the grant of bail to an accused in matters relating to sexual offences especially POCSO Act- 1. Age of the victim, 2. Age difference between victim and accused, 3. Ferociousness of the offence, 4. Relationship between victim and accused and 5. Vicinity of residence of the accused and victim and if they are in proximity then the accused is willing to reside elsewhere till the pendency of trial.

It is also the settled principal of law that a consensual relationship between the accused and the victim, especially if the victim is near the age of consent may be considered while hearing bail petition of accused. The Court must balance the right of liberty of accused with the need to protect the victim and society. The medical report indicates whether there is evidence of recent sexual activity which can be a crucial factor in determining whether the accused is likely to be convicted. The medical reports can corroborate or contradict the victim's statements and the prosecution's claims which can be significant in bail considerations. The medical reports also detail the nature and extent of injuries sustained by the victim, which can help assess the severity of the offence and whether it falls under the provision of POCSO Act. Courts often refer to past cases and legal precedents when deciding on bail applications. If there are previous cases where the severity of injuries was a significant factor in bail decisions, the Court may consider those precedents when evaluating the current cases.

In the case in hand, I have considered the age of the victim as well as her relationship with the accused. It appears that out of the said relationship VG has given birth to a child also. I have also gone through the injury report in CD as well as the statement made by VG before Ld. Magistrate. Investigation is already over.

In the above backdrop, considering the period of detention undergone by this accused as well as nature of alleged offence, other materials in hand, I am inclined to grant interim bail to accused person namely Surjya Middy @ Sukdeb and he is entitled to get **interim bail till next date** amounting to Rs. 8,000/- with two registered sureties of Rs. 4,000/- each, subject to satisfaction of Ld. ACJM, Kakdwip on condition that he shall attend before this Court on each and every dates of the further proceedings of this case subject to provision of Section 317 Cr.PC/355 BNSS and also he shall not give any type of threat or inducement to the prosecution witnesses and would not tamper with evidence in any manner whatsoever, failing which this order shall stand cancelled without any further reference.

Return the CD.

Supply copies to accused.

Let a copy of this order be sent to the Ld. ACJM, Kakdwip for information and taking necessary action.

Court diary is congested.

Fix 19.05.2026 for production/appearance of accused and consideration of charge.

Dict. & Corr. by me

Additional Sessions Judge, 1st Court
& Special Court under POCSO Act,
Kakdwip, South 24 Parganas

Additional Sessions Judge, 1st Court
& Special Court under POCSO Act,
Kakdwip, South 24 Parganas