

**Special POCSO Case No. 51/2024
(J.O.Code-WB00875)**

Order No. 11

Date: 19.08.2025

Today is fixed for physical production of accused Hadisul Islam Sk. from J.C, hearing of bail petition, appearance of accused Altab Laskar on court bail, E/R of W/A of accused Sakib Laskar and personal appearance I/C, Dholahat P.S.

I/C Dholahat P.S has not appeared personally and a prayer to that effect is filed on ground stated therein.

Perused.

Affidavit filed supporting the bail petition of accused Hadisul Islam Sk.

Accused Hadisul Islam Sk. is physically produced from J/C and he is represented by his Ld. Counsel.

Accused Altab Laskar on court bail is present by filing hazira.

A petition is received from Dholahat P.S praying for time for execution of W/A against Sakib Laskar

Ld. Spl. PP in charge namely Smt. Haimabati Sinha Barma files hazira for the State along with hazira of D.C.

Separate hazira filed for D/C by her Ld. Advocate.

The case record is taken up for hearing of bail petition.

Heard both sides.

During hearing, at the very outset, Ld. Defence Counsel submitted 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 J/C since 12.07.2025. F.I.R was lodged against two accused persons, out of whom one is on court bail. Investigation is already over and the statement under section 164 of Cr.PC. Of V/G shows that she had love affairs with this accused. V.G was 16 years old at the time of commission of alleged offense. Hence is the prayer for bail.

Ld. Spl. P.P. in-charge opposed the bail petition and submits that V.G. was 16 years old at the time of commission of alleged offence. Consent of minor V.G is no consent at all. This accused was absconding and as such W/A was issued against him, on the strength of which he was arrested from Mursidabad. V.G was recovered from Mursidabad from the house of the accused.

Ld. Counsel appearing for de-facto complainant opposes the bail petition on the same ground as submitted by prosecution.

I have heard both sides and have gone through the materials in CD. Investigation is already over. On being asked Ld. Special P.P-In-Charge submitted that at present V.G is with de-facto complainant in her house which is within Dholahat P.S.

The accused is in custody since 12.07.2025. I have gone through the statement of VG recorded by Ld. Magistrate as well as the medical document in CD. I have carefully perused the FIR as well as other material in hand.

In POCSO cases the most crucial factor while granting bail is the victim age at the time of the offence. In this case the victim was 16 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.

In the case in hand, I have considered the age of the victim as well as her relationship with the accused including the statement given by her before Ld. Magistrate.

There are catena of decisions wherein Honb'le Apex Court has been pleased to hold that the POCSO was never intended to criminalize consensual relationship in between adolescents.

In the above backdrop, considering the period of detention undergone by this accused as well as nature of alleged offence, other materials in hand and as investigation is already over, I am inclined to grant interim bail to accused person namely Hadisul Islam Sk. and he is entitled to get **interim bail till next date** amounting to Rs. 10,000/- with two registered sureties of Rs. 5,000/- 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 would not tamper with evidence in any manner whatsoever, and would not enter into the P.S Jurisdiction of the residence of de-facto complainant till completion of trial, failing which this order shall stand canceled without any further reference.

Return the CD.

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

Fix 31.10.2025 for production/appearance of accused Hadisul Islam Sk., appearance of accused Altab Laskar on court bail, E/R of W/A of accused Sakib Laskar and personal appearance I/C, Dholahat P.S.

Dict. & Corr. by me

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

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& Special Court under POCSO Act,
Kakdwip, South 24 Parganas.