

POCSO Case No. 03 OF 2021
CNR NO. WBUD01-000034-2021
J.O Code: WB00656

Later
Order No.03
Dated:30.01.2021

The accused **Jayanta Sarkar @ Bura** is produced from J/C through video conferencing.

A bail petition is filed on behalf of the accused **Jayanta Sarkar @ Bura**. The copy is served to Ld. Spl.PP Sri Ajoy Kr. Das.

It is submitted again that no bail petition was pending or was rejected before or by any Higher Forum in connection with this case.

It is submitted by the defence that there is no explanation as to why there was two days delay in lodging the FIR. It is submitted further that the father of the victim girl has been cited as a witness in the recovery memo of the victim girl and in this point, it is advanced by Ld. Defence lawyer that as there is the signature of the father of the victim girl in the recovery memo, it can be clearly said that the victim girl was not at all recovered from the house of the accused. It is again submitted that one Dipankar Mondal had signed as a witness in arrest memo who is a stranger and not at all related to the accused and as such no reliance can be placed on the Arrest Memo. Apart from that it is also submitted by the defence that the victim girl was recovered on 19.12.2020 but her statement was recorded u/s 164 Cr.P.C on 21.12.2020. The I.O did not assign any reason as to why he made this delay and as such it can be presumed that the victim girl was subsequently tutored in course of these two days. Lastly it is submitted that the provision of 164A Cr.P.C as well as section 27 of the POCSO Act has not been complied with by the I.O in course of investigation which is very much mandatory and as such CS has not been properly submitted by him and in view of above, it is prayed that the investigation done by the I.O is not appropriate and in accordance with law. The accused is ready to face the trial if he is enlarged on bail.

Ld.Spl.PP vehemently opposes the prayer for bail on the ground that the investigation is over and the CS has been submitted, and as such the plea taken by the defence has to be proved by him in course of trial.

I have carefully considered the CD. I have also heard the rival submissions. The CS has been submitted in this case u/s 4 of POCSO Act along with other sections of Indian Penal Code. A prima facie case has been made out against this accused since submission of charge sheet. At this stage, I am unable to entertain the prayer of the defence that the investigation is not proper or the like as he has to prove this in course of trial. In view of above, I am not inclined to enlarge this accused on bail. The prayer for bail of the accused **Jayanta Sarkar @ Bura** is **rejected**.

The I.O has submitted a prayer for custody trial of the accused Jayanta Sarkar. Let the same be kept with the record.

Fixing **12.02.2021** for production and filing appointment letter.

BC-II is directed to hand over the CD at once to Ld.PP Sri Swarup Biswas for allotment of the same. In the meantime the CD be kept with the record and BC-II is directed to keep the same safely.

Dictated & corrected

by me

