

POCSO Case No. 47 OF 2019

Order No.12

Dated:16.10.2020

The accused **Tapas Das** is produced from J/C through video conferencing. The accused **Satyen Das** is not produced from J/C. It is intimated by the Superintendent, Raiganj District Correctional Home to this Court that the accused **Satyen Das** is now transferred to the Hospital of the Presidency Correctional Home for his better treatment and management. He has been referred by the Medical Officer of Raiganj District Hospital and has not yet been returned back to Raiganj District Correctional Home. Seen the intimation of non-production of the accused **Satyen Das** given by the Superintendent, Raiganj District Correctional Home. Let the intimation be kept with the record.

Today is fixed for hearing bail petition dated 15.10.2020 filed on behalf of the accused Tapas Das and Satyen Das. Today Ld. Spl.PP Sri Ajoy Kr. Das is present. He has given his endorsement today on the bail petition dated 15.10.2020.

It is submitted by the defence 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 again that the accused persons are in custody since long and they have been falsely implicated in this case. Apart from that it is again submitted that the accused Satyen Das is suffering from cancer and the accused Tapas Das does not have any other member in his family to look after his aged mother. Ld. Defence lawyer has prayed for considering their prayer for bail in the present situation of this pandemic (COVID-19). In the above situation, it is prayed that they may be enlarged on bail on any condition.

Ld.Spl.PP strongly opposes the prayer for bail in respect of the accused **Tapas Das**. It is submitted by him that charge has been framed u/s 4 of POCSO Act against the accused Tapas Das and therefore, a strong prima facie case has been made out against him. Ld. Spl.PP left the matter to the discretion of this Court in respect of prayer of bail of the accused Satyen Das.

I have carefully considered the materials on record. I find that the charge has been framed u/s 4 of POCSO Act against the accused Tapas Das. A *prima facie* case has therefore, been made out against him. The offence alleged appears to be very serious in nature and in view of that, I am not inclined to enlarge the accused Tapas Das on bail. The prayer for bail of the accused **Tapas Das** is **rejected**.

I find on scrutiny that the accused **Satyen Das** was arrested on 25.10.2019 and since then he is in custody. The charges u/s 363/365 IPC have been framed against the accused Satyen Das. I do not find that this accused abused the minor victim girl sexually. Therefore, I intend to consider his period of detention. Apart from that further I find that the accused Satyen Das is suffering from some ailments and by reason of that for last few months he could not be produced before this Court and repeated intimation are given by the Superintendent, Raiganj District Correctional Home that the said accused has been transferred to Presidency Correctional Home on 28.08.2020 for his

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better medical treatment. However, as this accused is in custody since October, 2019, considering his period of detention, I intend to enlarge the accused **Satyen Das** on bail.

Accordingly, the accused **Satyen Das** may find bail of **Rs.5000/-** with two sureties of **Rs.2500/-each** one of whom must be an advocate surety to the satisfaction of **Ld. CJM Raiganj, Uttar Dinajpur**, on condition to appear before this Court on the dates of evidence.

The witnesses Sukru Md./ CSW-1/ complainant and the victim girl/CSW-6 are present before this Court for deposing evidence but as there is a resolution of Local Bar Association, Ld. Spl.PP does not want to examine them in the present situation of COVID-19. Accordingly, Sukru Md./ CSW-1/ complainant and the victim girl/CSW-6 are not examined and discharged.

If on bail, to **11.01.2021** for appearance of the accused **Satyen Das** and evidence of CSW-1/complainant and CSW-6 victim girl.

The prosecution do take steps accordingly.

To date for production of the accused **Tapas Das**.

Dictated & corrected

by me

Judge Special Court (POCSO)
Raiganj, Uttar Dinajpur

Judge Special Court (POCSO)
Raiganj, Uttar Dinajpur

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