

21.09.2023
SL. 6
Court No. 29
Suvayan
(Allowed)

C.R.M. (A) 3391 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Kultali** P.S. case No. **51 of 2019** dated **21.01.2019** under Sections **376D/306** of the IPC and Section **6** of the POCSO Act which ended up in charge-sheet dated **30.12.2019** under Section **376D/305** of the IPC and Section **6** of the POCSO Act arising out of Special Case No. **08 of 2019** pending before the learned Judge, Special Court (POCSO Act), Baruipur, South 24 Parganas.
And

In the matter of: **Hapijul Laskar**

....petitioner.

Mr. Angshuman Chakraborty

...for the petitioner.

Mr. Avishek Sinha

...for the State.

1. Heard learned Counsel for both the parties.
2. Charge-sheet is stated to have been filed.
3. One Kalo @ Tahajul Laskar and three others are alleged to have gang raped the victim who subsequently committed suicide. There is no statement of victim on record in view of her death. The occurrence happened in the house of maternal grand father of the victim. On the next day of the occurrence when the victim came back to her house and her mother found some physical discomfort on her and asked about the incident when the victim is stated to have conveyed the entire incident to her mother. In the statement of the mother of the victim there is name of Kalo @ Tahajul Laskar only and three others. The present petitioner is stated to be one of the three other persons who are alleged to have committed rape on the victim. The identity of the present petitioner has been established by the statement of the maternal uncle of the victim and other co-villagers. How far those statements have the potency to prove the connection of

the present petitioner is a question to be decided at the time of trial after putting the witnesses in the witness box.

4. *Prima facie*, the evidence regarding identity of the present petitioner appears to be shaky. There is no necessity of custodial interrogation of the present petitioner.
5. Regard being had to facts and submissions, factum of permanent residence of the petitioner, nature of allegation, and completion of investigation, it is directed that the petitioner shall surrender before the learned Judge, Special Court (POCSO Act), Baruipur, South 24 Parganas within 15 days from today in the Special Case No. 08 of 2019 arising out of aforesaid P.S. case. On his appearance and application for bail the petitioner shall be released on bail on such terms and conditions as deemed just and proper in the facts and circumstances of the case including the condition that:
 - i) The petitioner shall appear before the learned Trial Court on each date of substantive hearing subject to the provision of Section 317 Cr.P.C.
6. The learned Judge, Special Court (POCSO Act) is directed to act upon the server copy of this order, if required.
7. Accordingly, the prayer for the anticipatory bail is allowed.
8. The application being **CRM (A) 3391 of 2023** is disposed of.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

