

(2025) 02 TP CK 0992
In the Tripura High Court
Case No : Bail Application No. 06 Of 2025

Abul Hossain

APPELLANT

Vs

Mehedi Hossain

RESPONDENT

Date of Decision : 19-02-2025

Acts Referred:

Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 64, 137
Protection Of Children From Sexual Offences Act, 2012 — Section 6
Code Of Criminal Procedure, 1973 — Section 161

Citation : (2025) 02 TP CK 0992

Bench : Single Bench

Advocate : Biswajit Palit, J

Final Decision : Disposed Of

Judgement

Biswajit Palit, J

[01] Heard Mr. Arijit Bhaumik, Learned counsel appearing on behalf of the accused in custody, Mehedi Hossain as well as Mr. Rajiv Saha, Learned Addl. P.P. appearing on behalf of the State-respondent.

[02] By this time, we have received the record from the Learned Court below and also the Case Diary is produced by Learned Addl. P.P.

[03] Taking part in the hearing, Mr. Arijit Bhaumik, Learned counsel for the accused in custody first of all drawn the attention of the Court referring the FIR laid by the father of the victim namely Rashid Miah. Referring the same, Learned counsel submitted that in the FIR itself the informant stated that earlier also the similar incident took place and after that, the matter was settled. Learned counsel further submitted that the victim and the accused in custody have/had love affair with each other, although, the victim is minor.

[04] Learned counsel for the accused in custody further referred the judicial statement of the victim recorded by Learned Magistrate and referring the same, he further drawn the attention of the Court that if the statement of the victim is

analyzed, in that case, it would be seen that there was no evidence of any sexual intercourse. Thereafter, Learned counsel further drawn the attention of the Court the statement of the victim recorded by IO on 10.08.2024 wherein the victim specifically stated that she went to the residence of her classmate for travelling out of her own will. But the same victim again made another contradictory statement on 23.08.2024 wherein she stated that the accused compelled her to accompany with him as she had love affair with the victim and after that the accused committed physical relation with the victim.

[05] Learned counsel also submitted before the Court to see the statements of the parents of the victim from where it will be clear that there was no evidence of any rape or sexual penetration to the victim by the accused and they themselves admitted that the victim earlier also left with the accused in custody. Finally, Learned counsel submitted that the IO in this case has already laid charge sheet against the accused and there is no chance of his absconsion and he is also prosecuting his study in the college and if by this time, he is not released on bail then his academic career will be in trouble and he will be restrained from further prosecuting his studies. So, considering the period of detention and the facts and circumstances of this case, Learned counsel for the accused in custody urged for releasing the accused on bail in any condition.

[06] On the other hand, Mr. Rajiv Datta, Learned Addl. P.P. appearing on behalf of the State-respondent producing the Case Diary only submitted that the medical evidence clearly shows the commission of offence by the accused in custody and urged to dismiss the bail application.

[07] I have heard arguments of both the sides at length and perused the record of the Learned Special Judge, Gomati District, Udaipur. The informant, Rashid Miah being the father of the alleged victim in his FIR laid to OC, RK Pur Women P.S. on 10.08.2024 took the plea that on that day his daughter on her way to Bagma Samatal Para Higher Secondary School at 10 a.m. the defendant kidnapped his daughter and took her to an unknown place. He further asserted that the defendant also kidnapped her about 20-25 days back and took her to Buxanagar and on that day when the victim did not return back to home they went to the school and found that she did not go to school and they searched her and also found that the defendant Mehedi Hossain was also not present his house. Hence, he laid the FIR. The case was registered on the basis of the FIR laid by the informant vide R.K. Pur Women P.S. Case No.42 of 2024 under Section 137/64 of BNSS Act read with Section 6 of POCSO Act and in course of investigation, the alleged accused in custody surrendered before the Learned Court of Special Judge on 13.01.2025 and since then he is lodging in custody.

[08] I have also seen the FIR and the statement of the victim recorded by Learned Magistrate on 10.08.2024 and also the statement of the victim recorded by IO under Section 161 of Cr.P.C. on 23.08.2024 and subsequent statement recorded by IO of the said victim on 23.08.2024. Further, I have also gone through the statements of the parents of the victim. From their statement,

nowhere I find there is any evidence of forceful rape upon the victim by the accused. In one statement the victim stated that she voluntarily left the home and in another statement she stated that she had love affair with the alleged accused and the accused compelled her to accompany him and he committed physical relation with her. Before the Learned Magistrate she did not take any plea that she was subjected to forceful sexual intercourse by the accused. Admittedly, in this case, the victim is a minor. However, the IO by this time has laid charge sheet against the accused in custody and by order dated 06.02.2025 Learned Special Judge, Gomati District, Udaipur has taken cognizance of offence punishable under Section 137/64 of BNSS read with Section 6 of POCSO Act against the accused in custody and the case is now posted for DC/FC on 04.03.2025. However, considering the facts and circumstances of the case, it appears that if at this stage the accused is released on bail that would not cause any hamper to the investigation of the case.

[09] Hence, the bail application filed by the accused is hereby allowed. The accused namely Mehedi Hossain may be released on bail of his execution of bond of Rs.50,000/- with one surety of like amount to the satisfaction of Learned Special Judge, Gomati District, Udaipur on condition to appear before the Learned Court of Special Judge once in a week until further order and during the period of bail, he shall not take any attempt to temper the evidence on record of the prosecution failing which the Court shall be at liberty to take appropriate step for cancellation of bail in accordance with law in default to remain in jail custody as before. Further the accused shall not leave the jurisdiction of the Court without prior permission of the Court.

Send down the LCR along with a copy of this order in connection with Case No.Special(POCSO)04 of 2025 arising out of R.K. Pur Women P.S.42 of 2024. Send down the Case Diary to IO through Learned P.P. along with a copy of this order. Also supply a copy of this order to Learned counsel appearing for the petitioner in custody in course of the day.

With this observation, this bail application stands disposed of.