



ODISHA POLICE
CRIME AGAINST WOMEN & CHILDREN WING
BHUBANESWAR.

CAW&CW CIRCULAR ORDER NO. 02/2022

NO. 2/31 /CAW&CW (Estt.)

Dated. 02 .09.2022

To

All Distt.SsP/DCsP BBSR & CTC/SRP CTC and RKL.

Sub: Usage of Section 439(1A) CrPC in cases under POCSO Act 2012.

It has been observed that the victims of the crime under POCSO Act 2012 often remain ignorant of the bail petition filed by the accused in the POCSO/Special Court or in the High Court, due to which, they are unable to oppose the bail at the time of hearing of the Bail application. In this connection, the following provisions in the IPC and POCSO cases are once again reiterated.

2. The Criminal Law (Amendment) Act, 2018 amended Section 439 CrPC to add sub-section 1A which reads as follows:

"The presence of the informant or any person authorized by him shall be obligatory at the time of hearing of the application for bail to the person under sub-section (3) of section 376 or section 376-AB or section 376-DA or section 376-DB of the Indian Penal Code (45 of 1860)".

Summary of the IPC sections referred in the amendment are listed below:

- (i) Sec 376 (3): Punishment for rape on a woman under sixteen years of age.
- (ii) Sec 376 AB: Punishment for rape of woman under twelve years of age.
- (iii) Sec 376 DA: Punishment for gang rape of woman under sixteen years of age.
- (iv) Sec 376 DB: Punishment for gang rape of woman under twelve years of age.

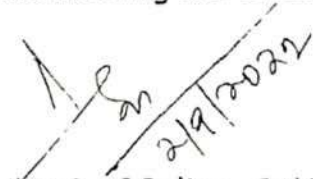
3. Besides, Rule 4 (13) & Rule 4 (15) (viii) of POCSO Rules' 2020 make it incumbent upon local police to inform the child or his/her person of trust and confidence about developments of investigations and court proceedings. The information includes among other things, information of bail, release or detention status of the offender.

4. Since the nature of offence in the IPC Cases referred to in Para 2 above and Section 4 & 6 of POCSO Act 2012 are same, the following directions are hereby issued.

- i. For offence under Section 4 or 6 of POCSO Act 2012 in respect of victim below 16 years of age:
 - (i) I.O. should add the appropriate sections of IPC applicable as given in Para 2 above while registering any case u/s 4 or 6 of POCSO Act 2012.
 - (ii) Whenever any bail application is moved by the accused, Investigation Officer shall serve the summon in the Format I enclosed to the victim/parent/guardian/other person, in whom the child has trust and confidence.
 - (iii) IO shall educate the victim/parent/guardian who was served the summons about the rights of the victim or the person authorized by him to appear in person and oppose the bail application.
 - (iv) Acknowledgment copy of the summon so served on complainant shall be maintained in the case diary.
- ii. Offence under Section 4 or Section 6 of POCSO Act 2012 in respect of a victim above 16 years of age or offences under Section 8, 10, 12, 14, 15 of POCSO Act, 2012:

Whenever any bail application is moved by the accused, Investigation Officer shall inform the same to the child and child's parent or guardian or other person in whom the child has trust and confidence in accordance with Rule 4(13) and Rule 4(15) of POCSO Rules 2020 as per Format II enclosed.

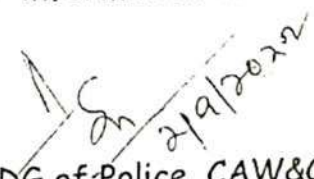
5. All Distt. SsP/DCsP to educate the IOs in monthly crime meeting and ensure strict compliance.


Addl.D.G of Police, CAW&CW,
Odisha, Bhubaneswar.

Memo No. 2132 /CAW&CW(Estt.)

Dated. 07.09.2022

Copy forwarded to Addl. D.G. of Police, Railway, Bhubaneswar/Commissioner of Police, Bhubaneswar-Cuttack/All Range IsGP/DIsGP for information and necessary action.


Addl.DG of Police, CAW&CW,
Odisha, Bhubaneswar.

Q.2. 2133/CAW&CW dt 2.9.22

Copy forwarded to Addl. Supdt. of Police and S.Os. of 'C' & 'W' Sections, CAW & CW, CID-CB, Odisha, Bhubaneswar for information and necessary action.

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21/9/2022
Addl.DG of Police, CAW&CW,
Odisha, Bhubaneswar.