

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41189 of 2016

Arising Out of PS.Case No. -236 Year- 2014 Thana -DALSINGHSARAI District- SAMASTIPUR

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Arvind Kumar Das @ Arvind Das Son of Late Maheshwar Das, resident of
Mohalla Ward No. 11 Loknathpur Ganj, P.S. Dalsingsarai, District-
Samastipur.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Bijay Bhushan Prasad, Advocate

For the Opposite Party/s : Mr. Uma Shankar Prasad Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL ORDER

2 05-10-2016 The petitioner has renewed his application for bail

in connection with G. R. No. 443 of 2014, arising out of

Dalsingsarai P. S. Case No. 236 of 2014 registered under

Section 376(2)(f) of the Indian Penal Code and Section 4 of the

Protection of Children from Sexual Offences Act, 2012 (for

short 'POCSO Act'),

Earlier, the prayer for bail of the petitioner was

rejected vide order dated 04.03.2015 passed in Cr. Misc. No.

51863 of 2014.

It is contended that the petitioner is in custody

since 23.05.2014 and on completion of investigation and after

perusal of the charge-sheet, cognizance of the offence was taken

on 01.08.2015. Though charges were framed against the petitioner on 24.03.2015, only four out of 13 witnesses have been examined on behalf of the prosecution till date. It is further contended that an under-trial prisoner cannot be kept in confinement for an indefinite period.

On the other hand, learned counsel for the State has submitted that the offence is quite serious and the petitioner is alleged to have ravished a minor girl of one year. The medical report also corroborates the prosecution case.

I have heard learned counsel for the parties.

Considering the gravity of the offence, I am not inclined to grant bail to the petitioner. Accordingly, his prayer for bail is rejected.

However, I must observe that the prosecution is not sensitive towards its duty to produce witness before the court. Section 35 of the POCSO Act mandates for recording of evidence of child and disposal of the case. It provides that the trial should be concluded as far as possible within a period of one year from the date of taking cognizance of the offence. It is seen that in most of the cases, after submission of charge-sheet, the prosecution forgets its duty to bring witnesses during trial so that the trial of a case may be brought to its logical conclusion.

Considering the undue delay caused in examination of witnesses, I direct the District Magistrate, Samastipur and the Superintendent of Police, Samastipur to personally look into the matter and ensure that all the witnesses of the case are examined without delay, preferably within six months from the date of receipt/production of a copy of this order.

The trial court should also make endeavour to conclude the trial within the aforesaid period.

Let a copy of this order be sent to the District Magistrate and the Superintendent of Police, Samastipur forthwith.

(Ashwani Kumar Singh, J.)

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