

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16248 of 2019

Arising Out of PS. Case No.-167 Year-2016 Thana- SAHARSA District- Saharsa

Md. Khurshid @ M.D. Kahrshid, Male, aged about 25 years, son of Md. Murshid @ Murshid R/o Village- Nariyar, Ward No. -3, P.S.- Saharsa, District- Saharsa.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Nikunj Shekhar, Adv.

For the Opposite Party/s : Mr.Madan Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5 17-07-2019 Heard Sri Nikunj Shekhar, learned counsel for the petitioner and Sri Madan Kumar, learned Addl. Public Prosecutor.

This is third attempt for grant of bail on behalf of the petitioner, who is in custody in Saharsa Sadar P.S. Case No.167 of 2016 registered for offence under Sections 363, 366(A) & 34 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act, 2012.

It was submitted by learned counsel for the petitioner that despite the fact that the petitioner is in custody since long, the prosecution is not taking sincere effort to produce witnesses. He submits that in absence of speedy trial, no purpose would be served in keeping the petitioner in custody.

The petitioner had initially filed a bail petition vide



Cr.Misc.No.32140 of 2016, which was rejected on 18.08.2016. Thereafter, second bail petition was filed by the petitioner vide Cr.Misc.No.9943 of 2018, which too stood dismissed on 21.03.2018, however considering the fact that the petitioner was in custody since 09.03.2016, the Court directed the trial court as well as the prosecution to take appropriate steps, so that the case may come to its logical end without unnecessary delay. The concerned Superintendent of Police was also directed to ensure production of witnesses, as and when required by the learned trial Judge. Despite direction of this Court in Cr.Misc.No.9943 of 2018, since prosecution failed to produce witnesses on number of dates, the petitioner again filed the present petition for grant of bail.

In this case, on 10.04.2019, a report was called from the court below regarding actual stage of the case, which was subsequently received. Since the report was not satisfactory, on 19.06.2019 again direction was given to the concerned court to send detailed report. In compliance of the order dated 19.06.2019, learned court below has sent a detailed report describing number of dates, on which no witness was produced by the prosecution. After rejection of second prayer for bail on 21.03.2018, at least on twenty nine dates, no prosecution



witness was present. The report further depicts that only on one date i.e. 03.07.2019, one prosecution witness was examined, cross-examined and discharged and, thereafter, again on 04.07.2019 the case was deferred on the prayer of learned Special Public Prosecutor for further evidence of prosecution. The report categorically depicts dilatory conduct adopted by the prosecution. In such situation, the petitioner may not be allowed to remain in custody for indefinite period without any speedy trial.

In that view of the matter, the petitioner, namely, Md. Khurshid @ M.D. Kahrshid is directed to be released on bail on furnishing bail bond of Rs.10,000/-(ten thousand) with two sureties of the like amount each to the satisfaction of learned A.D.J.1st , Saharsa in connection with Saharsa Sadar P.S. Case No.167 of 2016.

(Rakesh Kumar, J.)

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