

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.47609 of 2019**

Arising Out of PS. Case No.-631 Year-2017 Thana- PHULWARISHARIF District- Patna

Mohammad Shamim @ Aslam @ Md. Aslam, Son of Late Mohammad Riyaz a Resident of Mohalla - Isopur, P.S.- Phulwarisharif, District - Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Arvind Kumar Mouar

For the Opposite Party/s : Mr.Dinesh Singh

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**  
**ORAL ORDER**

3      18-09-2019                      Heard the learned counsel for the petitioner and the learned A.P.P. for the State.

The present petition is the third attempt on behalf of the petitioner for grant of regular bail in connection with Phulwarisharif PS case no. 631 of 2017 under Sections 376 of Indian Penal Code and Section 4 of the POSCO Act, inasmuch as the earlier two petitions filed by the petitioner for grant of regular bail bearing Cr. Misc. no. 15780 of 2018 and Cr. Misc. no. 70607 of 2018 were dismissed by this Court vide orders dated 21.03.2018 and 11.01.2019, respectively.

Allegation, in brief, is that when the prosecutrix, a 12 years old child, went to attend the nature's call, the petitioner raped her.

The learned counsel for the petitioner has submitted that the petitioner had withdrawn the earlier bail petition with liberty to move at a subsequent stage and since the petitioner is



languishing in custody since 04.10.2017 and there is no progress in the trial, the petitioner has approached this Court for grant of regular bail. It is further submitted that the petitioner is a sixty years old man and the medical report indicates absence of spermatozoa.

The learned counsel for the State submits that there is specific allegation against the petitioner and no spermatozoa could have been found, as the girl was examined approximately after two days.

This Court finds that there has been no change in circumstances from the time, the prayer of the petitioner for grant of regular bail was rejected on 21.03.2018, till date. Hence, this Court does not find any reason to reconsider the prayer of the petitioner for grant of regular bail.

Considering the fact that the prayer of the petitioner for grant of regular bail has been rejected twice on the earlier occasions, by this Court as also considering the heinous crime alleged to have been committed by the petitioner herein, there is no merit in the present petition, hence the same is dismissed.

**(Mohit Kumar Shah, J)**

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