

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7853 of 2020

Arising Out of PS. Case No.-632 Year-2017 Thana- AGAMKUAN District- Patna

LAL BABU @ LAL BABU SAHNI Son of Sri Bhushan Sahani @ Bhuvneshwar Sahni Resident of Mohalla - M.I.G., Sector - 3, Block No. 2, Bahadurpur Housing Colony, P.S.- Agamkuan, Distt - Patna, at present Muhalla - L.I.G., Sector - 3, Block No. 2, Flat No. 147, Near Shiv Mandir, Bahadurpur Housing Colony, P.S.- Agamkuan, Distt - Patna.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Parmeshwar Vishwakarma
For the Opposite Party/s : Mr.Nityanand

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 09-06-2020 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing lock-down on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned counsel for the petitioner and Shri Ashok Kumar, the learned APP for the State.

The present petition is by way of ^{3rd} attempt at the behest of the petitioner for grant of regular bail inasmuch as the earlier bail petitions filed by the petitioner for grant of regular bail were dismissed by this Court by an order dated 23.07.2018 passed in Cr. Misc. No. 33736 of 2018 and order dated 17.04.2019 passed in Cr, Misc. No. 75711 of 2018 in connection with Agamkuan P.S. Case No. 632 of 2017 for the offence punishable under Sections 377/34 of the Indian Penal Code and



Section 3/4 of the POCSO Act.

The allegation of the informant is that the son of the informant was kidnapped by the accused persons including the petitioner herein and they have committed unnatural act with the minor boy, who happens to be the son of the informant.

The learned counsel for the petitioner has submitted that the petitioner is languishing in custody since 5.1.2018 and though the charges were framed on 5.4.2018, however, there has been no progress in the trial. It is further submitted that this Court in its earlier order dated 17.04.2019 had granted liberty to the petitioner to move this Court after expiry of six months in case there is no progress in trial. Hence, the petitioner has again filed the present petition since there is no progress in trial.

Per contra, the learned APP appearing for the State has vehemently opposed the prayer for bail.

I have heard the learned counsel for the parties and perused the materials on record as also the report of the learned 1st Additional District and Sessions Judge, Patna dated 12.02.2020 wherein it has been submitted that despite taking all effective steps for production/ attendance of the witnesses, no witness has turned up on behalf of the prosecution, as such the



trial is pending for examination of the prosecution witnesses.

Considering the said aspect of the matter that the prosecution itself is not co-operating in the ongoing trial and taking into account the other materials available in the case diary, I deem it fit and proper to direct for release of the petitioner on regular bail.

Accordingly, the petitioner, above named, is directed to be released on regular bail on furnishing bail bonds of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned Additional District & Sessions Judge-I cum Special Judge, POCSO, Patna in connection with Agamkuan P.S. Case No. 632 of 2017.

It is needless to state that the petitioner shall mark his attendance before the learned court below on each and every date so fixed by the learned court below and in event of two consecutive defaults, the present privilege of bail being extended to the petitioner shall stand revoked automatically.

(Mohit Kumar Shah, J)

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