

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67193 of 2019

Arising Out of PS. Case No.-149 Year-2018 Thana- AGAMKUAN District- Patna

Munna Sharma S/o- Late Bhagwat Sharma @ Bhagavat R/v- Atwarpur, Pakri,
P.S.- Lalganj, District- Vaishali, at present resident at Village- L.I.G. Sector-3,
Block-4, Quarter No.-266, Bhutnath Road, P.S.- Agamkuan, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vijay Kumar Sinha

For the Opposite Party/s : Mr.Sanjay Kumar Tiwary

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

ORAL ORDER

5 05-06-2020 Heard Mr. Vijay Kumar Sinha, learned counsel
appearing for the petitioner as well as Mr. Sanjay Kumar Tiwary
learned Additional Public Prosecutor for the State through video
conferencing.

Petitioner seeks bail in connection with Special
(POCSO) P.S. Case No. 35 of 2018, Agamkuan P.S. Case No.
149 of 2018 registered for the offences punishable under Section
376 of the Indian Penal Code and Section 6 of the POCSO Act.

Earlier, the bail prayer of the petitioner was rejected
giving liberty to petitioner to renew his prayer for bail after nine
months, if the trial is not concluded within 9 months.

Submission on behalf of the petitioner is that the
petitioner is in jail custody since long and up till now his trial
has not been concluded, which is evident from perusal of the



status report sent by learned trial court.

Learned counsel of the petitioner, further, submits that *vide* order dated 13.1.2020, this Court sought a report from Senior Superintendent of Police, Patna, about medical examination of the victim girl as well as report of Forensic Science Laboratory and in compliance of the aforesaid order, the Senior Superintendent of Police, Patna, has sent his report dated 1.2.2020 mentioning therein that the victim was medically examined and she was found aged about 17-19 years and, furthermore, the Senior Superintendent of Police, Patna, sent photostate copy of FSL report. Learned counsel of the petitioner submits that the FSL report goes to show that no semen was detected on the clothes of victim and, furthermore, the report of the Senior Superintendent of Police, Patna goes to show that the prosecution witnesses including the informant were not found at the address as mentioned in warrant of arrest and their address is not known to the police officials as well as local residents, as a result whereof warrant of arrest issued against the prosecution witnesses and informant could not be served upon them. He, further, points out that, as a matter of fact, there was dispute between the petitioner and his wife and that is the reason, petitioner's wife got filed the present case through



daughter of the petitioner.

On the other hand, learned Additional Public Prosecutor, vehemently, opposed the prayer submitting that according to statement of victim recorded under Section 164 of the Code of Criminal Procedure, she was sexually exploited by the petitioner, who happens to be her father. He, further, submits that the police officials had tried their best to execute the warrant of arrest issued against the informant and other prosecution witnesses. He also points out that the learned trial court has sought six months more time to conclude the trial of the petitioner.

Having heard the contentions of both the parties, I went through the record along relevant reports. No doubt, the police could not succeed to execute the process upon the prosecution witnesses due to non-availability of their address. However, the Senior Superintendent of Police, Patna, has assured that the process issued by the learned trial court to prosecution witnesses shall be served upon them within a reasonable time.

On perusal of statement of victim recorded under Section 164 of the Code of Criminal Procedure as well as taking note of the report of learned trial court, I do not think it proper to release the petitioner on bail for present and, accordingly, his



prayer for bail stands rejected.

However, the petitioner may renew his prayer for bail, if his trial is not concluded within six months from the date of receipt/production of a copy of this order.

The Senior Superintendent of Police, Patna, is directed to ensure the service of warrant of arrest as well as processes issued against the prosecution witnesses including the victim and produce them before the trial court within two months.

(Hemant Kumar Srivastava, J)

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