

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9084 of 2021

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, Distt. - Vaishali at present resident at Village - L.I.G. Sector-3, Block -4, Quarter No. -266, Bhutnath Road, P.S. - Agamkuan, Distt. - Patna.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Suresh Pd. Singh, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 24-08-2021 Heard learned counsel for the parties through video conferencing.

The petitioner has renewed his prayer for bail in connection with a case registered under section 376 of the Indian Penal Code and section 6 of the POCSO Act, 2012.

It is submitted by learned counsel for the petitioner that the earlier application for bail of the petitioner was rejected vide order dated 6.12.2018 passed in Cr. Misc. No. 51287 of 2018 and again by order dated 5.6.2020 passed in Cr. Misc. No. 67193 of 2019. It is submitted that while rejecting the prayer for bail of the petitioner vide order dated 5.6.2020 this Court took note of the assurance of the Sr. Superintendent of Police, Patna, that the process issued by the learned trial Court to prosecution witnesses shall be served upon them within a reasonable time.



It is submitted by learned counsel for the petitioner that the petitioner has been falsely implicated in the case because he was against the friendship of the informant with a boy of her choice. By the order dated 5.6.2020 liberty was granted to the petitioner to renew his prayer for bail if the trial is not concluded within six months. In spite of more than 1 year 2 months having passed since the said order, there is no progress in the learned Court below nor a single witness has been examined on behalf of the prosecution. The petitioner has remained in custody since 7.3.2018 and there is no chance of the trial concluding in the near future. He undertakes to abide by all conditions which may be imposed by this Court for his release on bail.

A report was called for from the learned trial Court with respect to the stage of trial. As per the report received contained in letter no. 133/2021 dated 6.8.2021 of the learned Additional District & Sessions Judge VII – cum – Exclusive Special Court (POCSO Act), Patna, summons were issued to the witnesses on 6.2.2021 through the Sr. Superintendent of Police, Patna, but despite the same neither service report of summon nor the witnesses have been produced. Further bailable and, thereafter, non-bailable warrant were issued to the witnesses, however, no prosecution witness has been produced before the Court. It is stated that no witness has been examined in the case on behalf of the prosecution.

Having heard learned counsel for the parties and taking



into consideration the facts and circumstances of the case, the liberty granted by order dated 5.6.2020 together with the petitioner having remained in custody for 3 years 5 months since 7.3.2018, the petitioner is directed to be enlarged on bail in connection with Special (POCSO) Case no. 35 of 2018 (arising out of Agamkuan P.S. Case no. 149 of 2018) on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District & Sessions Judge VII – cum – Exclusive Special Court (POCSO Act), Patna, subject to the condition that the petitioner shall remain physically present in Court on each date of the trial and in case of his absence on a single date for reasons not to the satisfaction of the learned trial Court, the trial Court may cancel the bail bond of the petitioner and take him into custody till conclusion of the trial.

(Partha Sarthy, J)

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