

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4960 of 2022

Arising Out of PS. Case No.-377 Year-2013 Thana- KRITYANAND NAGAR District-
Purnia

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Kirtan Sharma S/O Baldeo Sharma R/o village- Singhia, P.S.- K. Nagar,
District- Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ajit Kumar Singh, Advocate

For the Opposite Party/s : Mr.Aditya Narayan Singh.1, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 30-11-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks.

In the present case, the petitioner seeks bail in
connection with K.Nagar (Champa Nagar) P.S. Case No. 377 of
2013 registered for the alleged offences under Sections 323,
504, 379 and 376/34 of the Indian Penal Code.

As per prosecution case, on the pretext of giving
employment to the minor daughter of the complainant, the
petitioner committed rape with the daughter of the informant for
the first time and thereafter, from time to time, he indulged in
physical relationship with the daughter of the complainant



giving her threats. When she became pregnant, the fact came to the knowledge of the complainant and complaint against the petitioner was filed.

The learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case. After filing of the complaint, the same was sent to the police for the institution of the FIR and the FIR was registered under Section 323, 504, 379, 376/34 of the Indian Penal Code against the petitioner and others. The petitioner faced trial for offences under Section 376 of the Indian Penal Code and he was found guilty and accordingly convicted in this case to undergo rigorous imprisonment of ten years with fine of Rs. 50,000/- and in default to undergo rigorous imprisonment for one year. Against the judgment and conviction, the petitioner moved to this Court and a Co-ordinate Bench in Cr. Appeal (SJ) No.62 of 2016 reached at the conclusion that the learned trial court was having no jurisdiction to try the case under POSCO Act and remitted it back to the competent court to proceed further in the matter in a de novo trial. The judgment and conviction was set aside. The learned counsel further submits that when it was observed by this Court that the learned trial court was having no jurisdiction, nothing remained in the matter and the petitioner ought to have



been released but he was not released by the learned trial court. Learned counsel further submits that petitioner is in custody since 29.08.2013 and there is no chance of conclusion of trial in near future or even within a reasonable time.

Learned APP opposes the prayer for bail submitting that the trial has progressed in this case after the matter was remitted back and a number of witnesses have been examined. Learned APP further submits that there is specific allegation against the petitioner and he was earlier convicted by the learned trial court though the said judgment was found to be faulty on ground of lack of jurisdiction.

Perused the records.

Having regard to the facts and circumstances and submissions made on behalf of the parties and especially the fact that the learned trial court in its report dated 01.07.2022 shows that out of ten charge-sheet witnesses, five witness have been examined and in view of the nature of allegation which shows seriousness and gravity of the offences, I am not inclined to enlarge the petitioner on bail.

Hence, the prayer for bail is rejected.

However, the learned trial court is directed to expedite the trial and conclude the same under the mandates of POCSO



Act at the earliest.

If the trial is not concluded within further six months,
then the petitioner may renew his prayer for bail.

(Arun Kumar Jha, J)

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