

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19254 of 2021

Arising Out of PS. Case No.-59 Year-2019 Thana- RAJPUR District- Rohtas

Shobha Devi, W/O Lala Sah, R/O Village Taraon, P.S-Nasriganj, District-Rohtas.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shankar Kumar, Advocate

For the Opposite Party/s : Ms. Pronoti Singh, APP

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR

ORAL ORDER

6 11-04-2022 The applicant/accused in Crime No. 59 of 2019 (POCSO Case No. 04 of 2020) registered with Rajpur Police Station for the offences punishable under Sections 302 and 201 r/w 34 of the Indian Penal Code and later on, Sections 376 and 120B of the Indian Penal Code as well as Sections 04 and 06 of the POCSO have been added, by this application is seeking her release on bail during pendency of the trial.

Heard the learned counsel appearing for the applicant/accused. He fairly argued that earlier bail application of the applicant was withdrawn by her when it was listed before the coordinate Bench of this Court and this application is listed before this Court under the orders of the Hon'ble the Chief Justice. It is further argued that all co-accused with identical role are already released on bail by several coordinate



Benches of this Court and there is no evidence against the present applicant. Therefore, he needs to be released on bail.

The learned Additional Public Prosecutor opposed the application by contending that the police officer has concluded that the applicant and other accused persons had committed the subject crime and this itself constitutes evidence against the applicant. She submits that the statement of first informant Sushil Gupta and Dula Devi is an evidence against the applicant.

I have considered the submissions so advanced and also perused the bail orders of all other co-accused passed by the several coordinate Benches of this Court. They all are released on bail under directions of this Court.

The applicant is reportedly sister of the step mother of the deceased. According to the prosecution case, accused persons had killed the minor daughter of the first informant and had disposed of her dead body apart from commission of offence punishable under the POCSO Act.

Opinion of the Police Officer after examining the case diary cannot constitute evidence and this is a basic thing. Sushil Gupta and Dula Devi are not the eye witnesses to the incident. Dula Devi had reached at the spot of the incident



after coming to know that the minor female child died. Hence she cannot be an eye witness to the fact of the commission of murder of the minor female child or regarding disposal of the dead body of the minor female child.

No tangible evidence against the applicant could be pointed out by the learned Additional Public Prosecutor. All other co-accused with similar evidence are already released on bail. The investigation of the subject crime is over. In this view of the matter, I see no reason to refuse bail to the applicant.

Hence, the order :-

- i. The application is allowed.
- ii. The applicant/accused in Crime No. 59 of 2019 (POCSO Case No. 04 of 2020) registered with Rajpur Police Station be released on bail on executing P.R. bond of Rs.10,000/- (Rupees Ten Thousand) on furnishing surety of the like amount to the satisfaction of the trial court with the following conditions: -

(I) The applicant/accused should not extend any threat, promise of inducement to the persons acquainted with the facts of the accusation against her so as to dissuade her from disclosing such facts to the Court or to any police officer.

(II) The applicant/accused should cooperate the



trial court in expeditious disposal of the trial against her.

(III) The applicant/accused should not contact the members of the prosecuting party as well as witnesses in this case in any manner till conclusion of the trial.

(IV) The applicant should not repeat commission of similar offence in future and if she is found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicant in the instant case.

The applicant to remove all office objections forthwith and the Registry to issue the certified copy of this order only after removal of office objections by the appellant/accused.

(A. M. Badar, J)

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