

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13128 of 2022

Arising Out of PS. Case No.-361 Year-2021 Thana- BALIYA District- Begusarai

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1. NAZMA KHATOON @ NAIKI W/o Ishwar Khalifa, Resident of Village - Sati Chaura, P.s.- Balia, Distt.- Begusarai.
 2. Sumitra Devi W/o Ishwar Khalifa Resident of Village - Sati Chaura, P.s.- Balia, Distt.- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Ms. Rita Verma, APP.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

5 18-08-2022 Let the defect, if any, be removed within two weeks
from today.

Heard learned counsel for the petitioners and learned
A.P.P. for the State.

The petitioners seek regular bail in connection with
POCSO Case No. 72 of 2021, arising out of Balia P.S. Case No.
361 of 2021 lodged under Sections 346, 366(A), 367, 370,
370(A), 371, 372, 373, 376 and 120(B)/34 of the Indian Penal
Code, Sections 3, 5, 6, 7 and 8 of Immoral Traffic Act, Sections
4, 6, 12 and 17 of POCSO Act and Sections 75 and 79 of
Juvenile Justice Act.

In the present case, the prosecution story is that

named accused persons five in number collectively used to trap juvenile and major girls and used to involve them in flesh trade. Presently the victim is juvenile. Therefore, POCSO Act has also attracted in the present case.

Learned counsel for the petitioner submits that there are two petitioners in the present case. Both are wife of Ishwar Khalifa, who alleged to be involved in the running of flesh trade with the help of female. He further submits that so far as the involvement of the present petitioners are concerned, is not specific. Whatever be the allegation and involvement in the alleged crime it is of Ishwar Khalifa and not upon the present petitioners. He further submits that petitioners are in custody since 04.11.2021, charge sheet has been filed as well as charge has also been framed and evidence of prosecution witnesses are going on. He further submits that by way of supplementary affidavit, he has attached the deposition of P.W.1 in which the extreme/specific allegation has been indicated against the present petitioners which constitutes that the petitioners used to take domestic work from the victim. On the point of criminal antecedent, learned counsel for the petitioners submits that in the earlier cases, they are on bail.

Learned counsel for the State has vehemently opposes

the prayer for bail and submits that the specific allegation of commission of crime is also upon the present petitioners. He further submits that in the evidence given in the supplementary affidavit the involvement of the present petitioners has clearly transpired. He further submits that the petitioners of the present case have criminal antecedent which is mentioned in paragraph- 3, all relating to Immoral Traffic Act. There are total 3 cases of same nature pending against the petitioners, out of three cases, two cases are under POCSO Act. He further submits that from the entire documents the modus operandi of the petitioner is like that of organized gang.

Considering the facts and circumstances of the case and the submissions made above, I am not inclined to grant bail to the present petitioners at this stage. Accordingly, the bail petition of the petitioners is hereby rejected.

Petitioners are at liberty to prefer for bail after one year.

Providing speedy trial to an accused is the constitutional vision of justice. Here in the present case, there are three cases pending against the petitioners which are as follows:

(I) Balia P.S. Case No. 100/2013, U/s- 373 of the

Indian Penal Code and Sections 3, 4, 5,6 of Immoral Traffic Act.

(ii) Balia P.S. Case No. 226/2015, U/ss- 420, 467, 468, 471 and 120B/34 of the Indian Penal Code, Sections 3, 4, 5 and 6 of Immoral Traffic Act and Sections 4 and 6 of POCSO Act.

(iii) Balia P.S. Case No. 361/2021 (POCSO Case No.72 of 2021), U/ss- 346, 366A, 367, 370, 370A, 371, 372, 373, 376 and 120B/34 of the Indian Penal Code, Sections 3, 5,6, 7 and 8 of Immoral Traffic Act, Sections 4,6,12 and 17 of POCSO Act read with Sections 75 and 79 of the J.J. Act.

Since all the three cases are sessions triable in nature, therefore, Sessions Judge is directed to fix one and same date in all three cases before the Sessions Court-cum-Special Court, POCSO.

Let a copy of this order be also sent to the Court of District & Sessions Judge, Begusarai for information and necessary compliance.

(Dr. Anshuman, J.)

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