

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12193 of 2022

Arising Out of PS. Case No.-23 Year-2020 Thana- MAHILA P.S. District- Rohtas

Shahjahan Khatoon Wife Of Khalil Ansari, R/O Village- Kasigavan Road,
Setering Par, P.S. And District- Rohtas (bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr.Ajay Kumar No.1, APP.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL ORDER

3 11-08-2022 Let the defect, if any, be removed within two weeks
from today.

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

The petitioner seeks regular bail in connection with
POCSO Case No. 74 of 2020, arising out of Mahila P.S. Case
No.23 of 2020 lodged under Section 376 of the Indian Penal
Code read with Sections 4/6 of the POCSO Act.

As per the prosecution version, allegation of rape
upon the husband of the petitioner is specific. Since the victim is
minor, therefore, sections 4 and 6 of the POCSO Act have also
added in the F.I.R.. In the F.I.R., the allegation against the
petitioner is to support her husband in the said act.

Learned counsel for the petitioner submits that it is a

false case, which has been filed by the informant. He further submits that the informant and the petitioner are *Gotani*. They are residing in a common house with their family. He further submits that on the day of alleged occurrence, both the family quarreled for use of common latrine-bathroom as it is also narrated by the victim in her statement under Section 164 of Cr.P.C. as well as in her examination after charge.

Learned counsel for the petitioner raised the second point that after filing of the F.I.R., the petitioner and her husband both were arrested and upon investigation, the police has submitted the final form against the present petitioner and found the present F.I.R. not true against the present petitioner (Annexure-2). He further submits that the POCSO Court ignoring the charge sheet has taken cognizance against both the accused persons during trial in the evidence of victim. The story of dispute for common latrine has been accepted by the prosecution witness. Learned counsel for the petitioner further submits that offence under Section 376 of the I.P.C. and Sections 4/6 of the POCSO Act are not made out against the present petitioner. He further submits that petitioner is aged about 53 years and is a female. Learned counsel for the petitioner further submits that she is in custody since

10.12.2021, charge sheet has already been filed, charge has already been framed and the petitioner has clean antecedent.

Learned counsel for the State opposes the prayer for bail and submits that it is true that final form has been submitted against the petitioner but cognizance has been taken against the petitioner. Therefore, bail may not be granted to her.

In the present facts and circumstances of the case and the submissions made above, let the petitioner above named, be granted bail on furnishing bail bonds of Rs.30,000/- (Rupees Thirty Thousand) with two sureties of the like amount each to the satisfaction of learned A.D.J-VI, Rohtas at Sasaram in connection with POCSO Case No.74 of 2020, arising out of Mahila P.S. Case No. 23 of 2020, subject to the conditions as laid down under Section 437(3) of Cr.P.C. with other following conditions:

A. The petitioner shall support in trial and shall appear physically before the lower court on each and every date fixed, in case of non-appearance for two consecutive dates without sufficient cause, shall resulted into cancellation of her bail bond.

B. One of the bailor shall be close relative who shall file affidavit before the court about his relation with the

petitioner.

With this observation, the bail application stands
allowed.

(Dr. Anshuman, J.)

ravishankar/-

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