

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23387 of 2021

Arising Out of PS. Case No.-45 Year-2019 Thana- BALIYA District- Begusarai

Md Jamil @ Gujra, S/O Md. Abul @ Md. Abul Hassan, Resident of Village -
Masoorchak (Ballia), P.S. Ballia, District - Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arjun Prasad, Advocate

For the Opposite Party/s : Dr. Indihar Kumari, APP

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR

ORAL ORDER

5 01-02-2022 The applicant/accused in Crime No. 45 of 2019 registered with Ballia Police Station for the offences punishable under Sections 354 and 354(D) of the Indian Penal Code as well as Sections 8 and 12 of the POCSO Act, by this application is seeking his release on bail during pendency of the trial.

Heard the learned counsel appearing for the applicant/accused. He argued that earlier bail application of the applicant was rejected with a liberty to the applicant to move afresh after completion of period of two years in custody. He submits that the applicant has already completed three years in custody and there are no prospects of commencement of the trial.

The learned Additional Public Prosecutor argued that the applicant is habitual offender and he has outrage the



modesty of female child below 12 years of age.

I have considered the submissions so advanced and also perused the earlier order dated 29.09.2020 passed in Criminal Misc. No. 25424 of 2020 by a coordinate Bench of this Court wherein the bail application was rejected on the ground that applicant is an accused in a case of similar nature.

In the case in hand, the first informant mother of the victim alleged that the applicant took her female child in the nearby field and tried to denude her.

It is thus seen that allegations against the applicant amounts to aggravated sexual assault punishable under Section 10 of the POSCO Act apart from the other relevant provisions of the Indian Penal Code. The prescribe punishment is for five years. The applicant has already undergone three years pretrial detention.

To crown this all, the report of the learned Special Judge shows that though the charge is framed on 12.03.2020, the prosecution has not produced any of its witness for adducing evidence.

In this view of the matter, applicant cannot be directed to undergo pretrial detention for indefinite period considering the apathy of the prosecution. Hence he deserves



to be released on bail by imposing some stringent condition.

Therefore, the order :-

i. The application is allowed.

ii. The applicant/accused in Crime No. 45 of 2019 registered with Ballia Police Station for the offences punishable under Sections 354 and 354(D) of the Indian Penal Code as well as Sections 8 and 12 of the POCSO Ac be released on bail on executing P.R. bond of Rs.15,000/- (Rupees Fifteen 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 him so as to dissuade him 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 him.

(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 he 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 applicant/accused.

(A. M. Badar, J)

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