

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25478 of 2022

Arising Out of PS. Case No.-77 Year-2020 Thana- MAHILA P.S. District- Araria

Md. Tabarak S/o Shaukat R/o village- Damheli Ward No. 03, P.S.- Araria,
District- Araria Petitioner

Versus

The State of Bihar Opposite Party

Appearance :

For the Petitioner/s : Mr.Viveka Nand Singh, Advocate

For the Opposite Party/s : Miss. Anita Kumari, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 11-08-2022 Heard Mr. Viveka Nand Singh, learned counsel for
the petitioner and Miss. Anita Kumari, learned APP
representing the State.

The petitioner is in custody in connection with Special
(POCSO) Case No. 30 of 2020 arising out of Araria Mahila P.S.
Case No. 77 of 2020 under sections 354A, 354D/34 of the
Indian Penal Code and Section 8 of the POCSO Act.

As per the FIR, the victim girl had gone to the
petitioner's shop for grinding of the wheat but he delayed the
said grinding and started doing so only after all the customers
had left. Further allegation is that he shut the door and behaved
indecently with her. She however opposed his move and ran
back to her home. She corroborated the same in her 164 Cr.P.C.
statement also.

Learned counsel submits that a bare perusal of the
FIR would show that the allegation that has been attributed



against him is exaggerated and in any case the different sections of the Indian Penal Code are bailable offence. So far as the inclusion of the POCSO Act is concerned, he has taken this Court's attention to the observation made by the learned Sessions Judge in its rejection order where it has been mentioned that the doctor have found the age of the victim girl between 16 to 18 years. He as such submits that taking into account the aforesaid facts as also that the petitioner do not have any criminal antecedent, he deserves bail.

Although, the allegation levelled in the FIR does not state well of the attitude/conduct of the petitioner, in view of the fact that the doctor opined the age of the victim girl to be 16 to 18 years, he is in custody since 5.4.2022 (as stated in para-17 of the bail application), has no criminal antecedent as also that the charge-sheet stands submitted and ultimately he has to face trial, this Court is inclined to grant him the privilege of bail.

Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned Special Judge (POCSO), Araria, in connection with Special (POCSO) Case No. 30 of 2020 arising out of Araria Mahila P.S. Case No. 77/2020 subject to the following conditions:



(i) one of the bailors should be the family members of the petitioner, who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reasons will entail his cancellation of bail by the Trial Court itself;

(iii) he shall appear before the concerned police station every fortnight for next six months to mark his presence;

(iv) he shall in no way try to induce or promise or threat the witnesses or tamper with the evidence, failing which the State shall be at liberty to take steps for cancellation of his bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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