

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61083 of 2021

Arising Out of PS. Case No.-105 Year-2019 Thana- NAUHATTA District- Saharsa

Md. Sahzad @ Md. Sazzad Son Of Md. Sharif R/O Village- Nauhatta, P.S.-
Nauhatta, District- Saharsa

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rashid Izhar, Advocate.

For the Opposite Party/s : Mr. Md. Aslam Ansari, APP.

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR

ORAL ORDER

2 03-08-2022 The applicant/accused in Crime No. 105 of 2019 registered with Nauhatta Police Station, giving rise to Special (POCSO) Case No.14 of 2020, for the offences punishable under Section 376 read with Section 34 of the Indian Penal Code as well as under Section 4 of the POCSO Act, by this application is seeking his release on bail during pendency of the trial.

This is second bail application. His earlier bail application was rejected on 02.11.2020.

The learned counsel for the appellant has pointed out copy of deposition of the prosecutrix and submitted that the prosecutrix was aged about 22 years and, therefore, there is no question of the applicability of the POCSO Act to the crime in question. It is further argued that the evidence of the



prosecutrix shows that it was a consensual act and not the act of commission of rape.

The earlier bail application of the applicant was rejected on merits of the prosecution case and liberty was given to the applicant to renew his request for bail if the trial is not concluded within a stipulated period of nine months.

It is seen that the trial is a part heard trial and evidence of the prosecutrix was already recorded in the year 2021. Therefore, in such part heard trial it will not be proper to release the applicant on bail. Hence, the application is rejected. The learned trial Court shall adhere the provisions of Section 309 of the Cr.P.C. while taking up this trial.

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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