

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70967 of 2021

Arising Out of PS. Case No.-377 Year-2019 Thana- GAYA MUFASIL District- Gaya

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BIPUL KUMAR @ SAURABH KUMAR Son of Nagendra Kumar Singh
Resident of Village/Mohalla - 1403, Shankar Niwas, North Lakhbag, P.S. -
Mufassil, District - Gaya, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pushkar Narain Shahi, Sr. Adv.
Mr. Gajendra Kumar Singh, Adv.
For the Opposite Party/s : Mr. Amit Kumar Rakesh, APP

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 19-01-2022 Heard learned counsel for the parties through video conferencing.

The petitioner has preferred this application for grant of regular bail in a case registered under section 376D of the Indian Penal Code and sections 4 and 6 of the POCSO Act.

It is submitted by learned Senior Counsel appearing for the petitioner that the application for bail of the petitioner was allowed vide order dated 4.9.2020 passed in Cr. Misc. no.19736 of 2020, however, by order dated 22.3.2021 passed in SLA Cr. No.1016 of 2021 by the Hon'ble Apex Court the order granting bail to the petitioner was set aside, the local police authorities directed to take the petitioner into custody and the learned trial Court was directed to ensure the expeditious



completion of the trial within six months from the date of arrest of the petitioner. It is further submitted that in Misc. Application no. 1181 of 2021 (in SLP CrI. No.1016 of 2021) preferred in the Hon'ble Apex Court, although the order was not reviewed, however, by order dated 27.8.2021 the Hon'ble Apex Court observed that if the trial is not concluded and judgment not delivered within the time specified in the order, the applicant was granted liberty to apply for grant of bail before the trial Court which would be considered appropriately. It is submitted that the petitioner surrendered immediately on 1.4.2021. The trial has still not concluded. Referring to the order rejecting the application for bail by the learned trial Court it is submitted that the victim, her mother and sister have been examined in course of trial but none of them have supported the allegations against the petitioner. The petitioner was not named in the F.I.R. Further co-accused Chhotu Kumar has been enlarged on anticipatory bail vide order dated 12.1.2022 passed in Cr. Misc. no.15905 of 2021. On merits, it is submitted that the alleged victim being a major, POCSO Act would not be applicable and the main prosecution witnesses have not supported the case of the petitioner. Thus the petitioner be enlarged on bail.

The application for bail is opposed by learned A.P.P.



for the State.

A report was called for from the learned trial Court. As per the report received contained in letter dated 10.1.2022 of the Special Judge, POCSO Court-cum-ADJ- VI, Gaya, in view of the sudden surge of covid cases and as the Civil Court, Gaya is working on virtual mode, two additional months is required for disposal of the case.

Having heard learned counsel for the parties and taking into consideration the facts of the case as narrated herein above, together with the contents of the report of the learned trial Court wherein the the trial is expected to conclude within two months, the Court is not inclined to enlarge the petitioner on bail and the application is rejected.

(Partha Sarthy, J)

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