

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20396 of 2023

Arising Out of PS. Case No.-71 Year-2017 Thana- CHANAN District- Lakhisarai

Mirtunjay Kumar @ Bhothi @ Bhothi Kumar @ Mrityunjay Kumar, Son of
Kameshwar Yadav, R/V- Lakhochak, P.S- Chanan, Dist- Lakhisarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mayank Bilochan, Advocate

For the Opposite Party/s : Mrs. Nirmala Kumari, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 26-04-2023 Heard Mr. Mayank Bilochan, learned counsel

appearing on behalf of the petitioner and the learned APP for the

State.

The petitioner renewing his prayer for bail in connection with POCSO Case No. 24 of 2017 arising out of Chanan P.S. Case No. 71 of 2017 registered for the offences punishable under Sections 366 (A), 376 (G), 307/34 of the Indian Penal Code as well as Section 8 of the Protection of Children from Sexual Offences Act.

The prayer of the petitioner was earlier twice rejected by the Court after taking into consideration the serious allegation and the statement of the victim. While rejecting the prayer for bail on the last occasion, direction was given to the learned trial Court to take all measures to conclude the trial



within a period of six months in the light of the mandate of the provisions prescribed under Section 35 (2) of the POCSO Act, which clearly stipulates that the trial Court shall complete the trial, as far as possible, within a period of one year from the date of taking cognizance from the offences.

Submissions has been made that the charges have already been framed on 04.04.2018 itself, however, till date out of seventeen charge-sheet witnesses only five witnesses have been examined.

Earlier by the order of this Court, status report was called for and the submission of the petitioner stands fortified that till date only five charge-sheet witnesses have been examined and so far the petitioner is concerned, he is in custody for a period of five years and ten months.

On the other hand, learned APP vehemently opposes the bail application and submits that there is specific allegation against the petitioner that he has committed rape upon the victim along with other co-accused persons and he is also named in other two criminal cases, as has been mentioned in paragraph no. 3 of the application.

Regard being had to the submissions made on behalf of the parties and considering the period of custody and the fact



that there is no likelihood of conclusion of the trial in near future, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge – VI – Cum Special Judge POCSO Court, Lakhisarai in connection with POCSO Case No. 24 of 2017 arising out of Chanan P.S. Case No. 71 of 2017, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the



court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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