

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45418 of 2023

Arising Out of PS. Case No.-34 Year-2017 Thana- SAKSOHRA District- Patna

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Gaurav Kumar @ Bittu Kumar @ Bittu, Son of Shri Dharmendra Kumar,
Resident of Village-N.H 31 Kabirmath, Kazichak, P.S. -Barh, District- Patna,
Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kishore Kunal, Advocate

For the Opposite Party/s : Mr. Anil Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

- 2 27-07-2023 1. Heard learned counsel for the petitioner and the
learned APP for the State.
2. Petitioner seeks regular bail in connection with
Special POCSO Case No. 155 of 2017, arising out of Saksohra
P.S. Case No. 34 of 2017 dated 09.10.2017 registered for the
offences punishable under Sections 376 and 307 of the Indian
Penal Code and Section 6 of the Prevention of Children from
Sexual Offences Act.
3. The main submissions advanced by the learned
counsel for the petitioner are that this is third attempt of the
petitioner to get the relief of regular bail after his earlier two
attempts for the same relief were rejected by the co-ordinate



bench of this court and in the order dated 23.01.2020 passed in Cr. Misc. No. 49633 of 2019 this court granted liberty to the petitioner to renew his bail prayer if his trial is not concluded within nine months and thereafter a considerable period has elapsed but petitioner's trial is still running and out of six prosecution witnesses, five have been examined, though only one witness of the prosecution remains to be examined but petitioner wants to give his defence evidence and for this, he has to discuss with his counsel as well as collect some documents relevant to his defence. Further submissions are that the petitioner has clean antecedent and there is no injury report on the record despite the so-called victim having been examined at various medical centers and the victim recorded her statements under section 161 and 164 of Cr.P.C. several months after the commission of the alleged occurrence and during the trial, the trial court removed the offence of Section 6 of POCSO Act against the petitioner and now he is facing trial for the offences punishable under sections 376 and 307 of the IPC and he has spent about four years in jail as he has been languishing in judicial custody since 12.06.2019. Further submission is that all the material non-official prosecution witnesses including the victim has been examined, so there is no chance of tampering



with the remaining witness by this petitioner if he is enlarged on bail.

4. Learned APP appearing for the State opposes the bail prayer.

5. Considering the above submissions and mainly the petitioner's custody period and also the facts that all the material non-official witnesses of the prosecution have been examined as per above submission and petitioner has fair and clean antecedent and he wants to give his defence evidence and that would take some time to conclude his trial, in my opinion, in the present circumstances the petitioner deserves to a lenient approach of this court. Accordingly, let the petitioner named-above be enlarged on bail in connection with Special POCSO Case No. 155 of 2017, arising out of Saksohra P.S. Case No. 34 of 2017 on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the Court concerned on following conditions:

(i) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the trial Court and shall remain physically present as directed by the trial Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the trial Court.

(ii) If the petitioner tampers with the evidence or the witnesses, in that case the



prosecution will be at liberty to move for cancellation of bail.

(iii) One of the bailors shall be a close relative of the petitioner who has sworn affidavit in this miscellaneous petition.

(Shailendra Singh, J)

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