

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60168 of 2022

Arising Out of PS. Case No.-93 Year-2022 Thana- NAUHATTA District- Rohtas

Khalil Khalifa Son Of Late Makuni Khalifa R/O Village - Daranagar, P.S.-
Nauhatta, District - Rohtas, Sasaram.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Deovind Kumar Singh, Advocate

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

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 13-03-2023 Let the defects, if any, pointed out by the office be removed within three weeks from the date of this order, failing which the matter be listed again under the appropriate heading for necessary action.

Heard learned counsel for the petitioner and learned APP for the State.

Petitioner seeks regular bail in connection with Nauhatta P.S. Case No. 93 of 2022 registered for the offences punishable under Sections 341, 323 of the Indian Penal Code and Section 4 of POCSO Act.

As per the prosecution, the informant(victim) alleged in her written complaint that this petitioner tried to outrage her modesty while she went to the house of the petitioner to deliver milk.



The main submissions advanced by the petitioner's learned counsel are that the petitioner is a seventy years old person and during investigation the police did not make any attempt to get the victim examined medically and accordingly there is no medical report to substantiate the allegation of the FIR, as per the allegation made in the FIR Section 4 of POCSO Act is not applicable in this case as in the FIR there is no allegation of committing penetrative sexual assault by the petitioner with the so-called victim though the victim made an allegation of penetrative sexual assault in her statement recorded under Section 164 of Cr.P.C. but between the facts of the FIR and her statement recorded under Section 164 of Cr.P.C. there are serious contradictions, in fact on the alleged day of occurrence a procession of Muharram was going on, owing to which all the family members of the petitioner were present at the house and due to village politics the instant case was falsely fabricated and the petitioner himself surrendered before the court below and has been languishing in jail since 25.08.2022 and the investigation has been completed against the petitioner.

Learned APP appearing for the State has opposed the prayer for bail.

Considering the aforesaid facts, mainly the



petitioner’s custody period and his old age as well as serious contradiction between the facts of the FIR and victim’s statement recorded under Section 164 of Cr.P.C. and also the petitioner’s fair and clean antecedent, in my opinion it is a fit case for bail to the petitioner. Accordingly, let the petitioner named-above be enlarged on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the concerned Court in connection with Nauhatta P.S. Case No. 93 of 2022.

(Shailendra Singh, J.)

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