

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6244 of 2024

Arising Out of PS. Case No.-84 Year-2021 Thana- CHORAUT District- Sitamarhi

Gulab Sah, Son of Late Jugeshwar Sah, Resident of Village-Choraut, P.S.-
Choraut, Distt-Sitamarhi

... .. Petitioner

Versus

1. The State of Bihar
2. Victim Girl (Name Not Known) D/o Shri Kamlesh Mandal, R/o vill -
Choraut, Ward No. 3, P.S. - Choraut, Distt. - Sitamarhi

... .. Opposite Parties

Appearance :

For the Petitioner/s : Ms. Madhubala Verma, Advocate
For the Opposite Party/s : Mr. Anant Kumar 1, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 13-03-2024 The petitioner has preferred the present petition for bail on second occasion. Earlier, his prayer for bail was rejected vide order dated 27.09.2022 as passed in Cr. Misc. No.6593 of 2022, where it has been directed to the Trial Court/Special Court as to conclude the matter within the specified time period as specified under Section 35(2) of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act'). The aforesaid prayer of bail of petitioner was rejected after considering all available merits.

2. Learned counsel appearing on behalf of the petitioner submitted that petitioner is in custody since 10.09.2021 i.e. about two and a half years, where cognizance in



this case was taken on 29.11.2021. It is submitted that no prosecution witnesses as of now examined in this case and just on 20.02.2024, the charge was framed against accused-petitioner.

3. It would be apposite to re-produce the provision of Section 35(2) of the POCSO Act as under:-

“35. Period for recording of evidence of child and disposal of case.—

(1) xx xx xx

(2) The Special Court shall complete the trial, as far as possible, within a period of one year from the date of taking cognizance of the offence.”

4. In view of aforesaid, as trial court has failed to conclude the trial preferably within statutory time period, as aforesaid, where not even a single prosecution witnesses examined in this case despite of fact that petitioner is in custody since 10.09.2021, accordingly, the above-named, petitioner is directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-VI-cum-Special Judge (POCSO Act), Sitamarhi in connection with Choraut P.S. Case No.84 of 2021, subject to the conditions as laid down under Section 437(3) of the Code of Criminal Procedure and with further conditions:-



(i) That petitioner shall not interact with victim, family members of the victim or any prosecution witnesses in whatsoever manner during the pendency of trial. Any attempt to tamper the evidence/witnesses, shall liable to cancellation of bail by learned trial court itself, if pressed by State.

(ii) That petitioner shall co-operate in the trial and shall be physically present on each and every date before the learned trial court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground duly supported by the document.

(Chandra Shekhar Jha, J.)

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