

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28721 of 2024

Arising Out of PS. Case No.-25 Year-2023 Thana- BARURAJ District- Muzaffarpur

Kamalesh Sahni @ Kameshwar Sahni @ Kamleshwar Sahni @ Kameshar Sahni Son of late Jokhan Sahni Resident of Bankat Bakhari, P.S.-Baruraj, Distt.-Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Alok Kumar Alok

For the Opposite Party/s : Mr.Amitesh Kumar

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 26-07-2024 Heard learned counsel for the petitioner and learned A.P.P. for the State.

2. The petitioner seeks bail in connection with Baruraj P.S. Case No. 25 of 2023 registered for the offences punishable under Sections 341, 323, 376, 511/34 of the Indian Penal Code read with Section 8/12 of POCSO Act.

3. As per prosecution case, petitioner is said to have accompanied the co-accused Harimohan Sahni by putting *gamcha* over the mouth of the victim.

4. Learned counsel for the petitioner submits that from the perusal of F.I.R., it is clear that occurrence has taken place on 28.01.2023 but the F.I.R. has been lodged on 02.02.2023.He further submits that there is no specific over-act



attributed against the petitioner rather the specific allegation is against co-accused Harimohan Sahni. He further submits that in order to constitute the case under POCSO Act, it is necessary to determine exact age of victim under the statutory provision required under law which is lacking in the present case. Petitioner is in custody since 24.05.2023 which is more than one year and he bears no criminal antecedent. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence.

5. The learned A.P.P. for the State as well as learned A.P.P. opposed the prayer for bail of the petitioner by submitting that petitioner accompanied the co-accused Harimohan Sahni in the alleged occurrence and, hence, he does not deserve bail.

6. Considering the facts and circumstances of the case, period of custody, keeping in view clean antecedent of petitioner, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioner above named 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 learned Special Judge,
POCSO Court – II, Muzaffarpur in connection with Baruraj P.S.
Case No. 25 of 2023, subject to following conditions:-

(i) One of the bailors shall be either father or
mother or sister or brother or wife or the person who has sworn
the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will
remain present on all dates and absence for two consecutive
dates without appropriate permission, would be a ground for
cancellation of bail by the learned Trial court itself.

(iii) 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.

(Alok Kumar Pandey, J)

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