

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54473 of 2024

Arising Out of PS. Case No.-496 Year-2023 Thana- MOKAMAH District- Patna

Sujit Kumar Son of Lalbabu Bind R/V- Barahpur, Bind Tola, Ward No. 1,
P.S.- Mokama, Distt.- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rita Devi Wife Of Jitendra Bind R/V- Barahpur, Bind Tola, Ward No. 1,
P.S.- Mokama, Distt.- Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dharendra Kumar, Advocate
For the Opposite Party/s : Mr. Satya Nand Shukla, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 14-08-2024 Heard the learned Advocate for the petitioner and the
learned APP for the State.

2. The petitioner seeks regular bail, who is in custody
in connection with Mokama P.S. Case No. 496 of 2023,
registered for the offence punishable under Section 376 of the
Indian Penal Code and Sections 4 and 6 of the POCSO Act.

3. Based upon the written report, the prosecution
alleges that three months prior to the institution of the FIR, the
brother-in-law of the informant has committed wrongful act of
rape upon her minor daughter, aged about five years. It is further
alleged that the daughter of the informant did not disclosed this
fact. However, on the eve of *chath* puja, when her niece came



the victim narrated the entire incidence to her, thereupon the FIR has instituted.

4. Learned Advocate for the petitioner contended that the petitioner is none else but the own brother-in-law of the informant and because of some dispute in relation to partition, of the property, the present FIR has been instituted. It is next contended that the narrations made in the FIR clearly suggest that neither the date of the incidence nor the place has been disclosed. Moreover, the delay in lodging of the FIR vitiates the entire prosecution case. The victim girl is own niece of the petitioner and the medical report also does not corroborate the prosecution case. The good sense prevailed in the families and once the dispute relating to property has been resolved, both the parties have compromised is the contention of the learned Advocate for the petitioner, the copy of which has been produced before this Court. Taking note of the factum of affidavit filed in the jurisdictional Court, this Court does not find any necessity to issue notice to O.P. No. 2. Moreover, the petitioner is a man of fair antecedent and he has been incarcerated since 25.12.2023.

5. On the other hand, learned APP for the State vehemently opposes the bail application and submits that the



nature of the crime is quite heinous; the relationship and faith of a child aged about five years has been betrayed by the protector.

6. Regard being had to the submissions made on behalf of the parties and considering unspecified allegation, the conduct of the informant and the delay in lodging of the FIR as well as the relationship between both the parties, coupled with the fair antecedent and the period of incarceration, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 25,000/- (Rupees twenty-five thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge Vith cum Special Judge, POCSO, Patna in connection with Mokama P.S. Case No. 496 of 2023, 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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