

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78615 of 2023

Arising Out of PS. Case No.-221 Year-2021 Thana- GAUNAHA District- West Champaran

INJUL HAQUE Son of Jajul Shekh R/O Village - Mahuabusa, P.S.- Gaunaha,
District - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Bimlesh Kumar Pandey
For the State	:	Mrs.Madhuri Lata
For the Informant	:	Mrs.Preti Kumari

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

5 23-02-2024

Heard the parties.

2. The petitioner seeks bail in connection with Gaunaha P.S. Case No.221/2021 registered for the offences punishable under Sections 366A/34 of the Indian Penal Code and Section 8 of the POCSO Act.

3. As per prosecution case, there is allegation against the petitioner that he kidnapped the minor daughter of the informant.

4. Learned counsel for the petitioner submits that the petitioner is in custody since 28.06.2022 and bears criminal antecedent of one case in which he is on bail. Petitioner is quite innocent and has committed no offence as alleged against him in the FIR and he has falsely been implicated in the present case.



He further submits that on 02.02.2023 the bail of the present petitioner has already been rejected by this Court vide Cr. Misc. No.50265/2022 with an observation that if the trial is not concluded within six months from the date of receipt/production of copy of this order, the petitioner may renew his prayer for bail. He further submits that since the date of rejection of the bail petition of the petitioner, one year has already been lapsed but only one witness has been examined. He further submits that delay of trial is not attributable to the present petitioner as he is in custody since 28.06.2022.

5. Learned counsel for the informant opposed the prayer for bail of the petitioner and submits that there is direct allegation against the petitioner.

6. The learned A.P.P. for the State opposed the prayer for bail of the petitioner but conceded to the submission of the learned counsel for the petitioner that this court while rejecting the prayer for bail of the petitioner observed that if the trial is not concluded preferably within six months, the petitioner may renew his prayer for bail.

7. A report regarding stage of trial has been sought by this Court and in pursuance of the said direction, the trial court vide letter no.36 dated 08.02.2024 has sent its report which reveals that only one witness has been examined till date and the



pace of trial is slow and the trial is not likely to be concluded in near future. The aforesaid report further reveals that the trial of this case is likely to be concluded within six months.

8. Considering the aforesaid facts and circumstances of the case, period of custody which is more than one and half year, trial is not concluded within six months and delay of trial is not attributable to the petitioner, argument advanced on behalf of the 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 Additional Sessions Judge-VIIth cum Special Judge POCSO, Bettiah, West Champaran in connection with Gaunaha P.S. Case No.221/2021, subject to the 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 a single date 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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