

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 7049 of 2024

Arising Out of PS. Case No.-691 Year-2023 Thana- FORBESGANJ District- Araria

Md. Mumtaz S/o Md Khurshid Vill- Moti Tappu, Ward No- 14, Pathraha,
P.S.- Ghurna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gopal Kumar Jha, Adv.

For the Opposite Party/s : Mr. Ajit Kumar, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL ORDER

3 09-04-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks regular bail in connection with
Special (POCSO) Case No. 65 of 2023 arising out of Forbesganj
P.S. Case No. 691 of 2023 dated 28.07.2023, lodged under
Section 376(D) of the I.P.C. read with Section 4 of the POCSO
Act.

3. As per the prosecution case, the F.I.R. has been
lodged against two named accused persons including the present
petitioner. In the F.I.R., the informant has disclosed that her
daughter went to see the play of Muharram but not returned,
subsequently, she was found in unconscious state. The
informant has seen two accused persons, who fled away from
the place of occurrence and those two persons have been made
accused (one being petitioner).

4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. He submits that the alleged victim has narrated her statement under Section 164 of Cr.P.C. in which she has categorically alleged the other co-accused, who has committed rape with her. He further submits that she had not whispered anything against the present petitioner. He further submits that the antecedent of the petitioner is clean and he is in custody since 29.07.2023.

5. Learned A.P.P. for the State opposes the prayer for bail and submits that on earlier occasion, statement of victim recorded under Section 164 of the Cr.P.C. has been called for. From perusal of the statement of victim, it transpires that the victim has alleged allegation only against other co-accused person and not against the present petitioner.

6. In the present facts and circumstances of this case and the submissions made above, let the petitioner above named, be granted bail on furnishing bail bonds of Rs. 30,000/- (Rupees Thirty Thousand Only) with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge-VIth-cum-Special Judge (POCSO), Araria in connection with Special (POCSO) Case No. 65 of 2023 arising out of Forbesganj P.S. Case No. 691 of 2023, subject to the conditions as laid down under Section 437(3) of Cr.P.C. with

other following conditions:

(i) one of the bailors should be the family member of the petitioner who shall provide official document to show his *bona fide*;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bonds by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every month for one year to mark attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidence, failing which the State shall be at liberty to take steps for cancellation of the bail bonds; and

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

7. With this observation, the bail application stands allowed.

(Dr. Anshuman, J)

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