

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.425 of 2025

Arising Out of PS. Case No.-6 Year-2021 Thana- MAHILA PS District- Gaya

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Fuchu Kumar Yadav S/O Suresh Yadav R/O Village- Kishunpura, P.S-
Magadh Medical College, District.- Gaya.

... .. Appellant/s

Versus

1. The State of Bihar
2. Sunita Kumari D/O Surendra Paswan and W/O Boby Kumar R/O Village-
Kishunpura, P.S- Magadh Medical College, District- Gaya, presently
residing at Village- Godawari, P.O- Chand Chaura, P.S- Rampur, Dist.-
Gaya.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Suraj Narain Yadav, Advocate

For the State : Mr.Sanjay Kumar Tiwary, Sp. P.P

For the NCB : Mr. Arvind Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 20-06-2025 Heard learned counsel for the appellant and learned
Special P.P. for the State.

2. The present appeal has been filed for setting aside
the order dated 06.12.2024 passed in Bail Application Special
Act no. 3753 of 2024 in POCSO Case no. 26/2021 arise out of
Manila P.S. Case no. 6/2021 registered U/s 376, 377/34 I.P.C.,
Section 4 of POCSO Act and Section 3(1)(r)(s)(w)(i)/3(2)(v-a)
SC/ST Act and to grant the appellant regular bail in connection
with the aforesaid case.

3. The following order was passed on 03.05.2024 in



Cr. Misc. No. 76382 of 2023, which reads as under:

“The order dated 19.04.2024 be treated to be the order no. 04.

2. Heard the learned counsel for the petitioner and learned APP for the State.

3. The petitioner seeks regular bail in a case registered for the offence under Sections 376, 377, 34 of the Indian Penal Code, Section 04 of the POCSO Act, under Section 3(1)(r)(s)(w) read with Section 3(2)(v-a) of Prevention of SC/ST Act.

4. From reading of the F.I.R. it appears that this case does not appear to be a case of regular bail. The F.I.R. is such that this Court is not giving the details of the F.I.R. Petitioner is in jail since 08.06.2023.

5. Considering the gravity of offence and nature of accusation against the petitioner, I am not inclined to grant bail to the petitioner.

6. Accordingly, this application for regular bail is dismissed. The court below is directed to expedite the trial of the petitioner.”

4. Learned counsel for the appellant submits that the trial has started and three witnesses have been examined.

5. The Hon’ble Supreme Court in the case of **X vs. State of Rajasthan & Anr.** reported in **2024 SCC Online SC 3539** has held as under:

“14. Ordinarily in serious offences like rape, murder, dacoity, etc., once the trial commences and the prosecution starts examining its witnesses, the Court the it the trial Court or the High Court should be loath in entertaining the bail application of the accused.

15. Over a period of time, we have noticed two things, i.e., (i) either bail is granted after the charge is framed and just before the



victim is to be examined by the prosecution before the trial court, or (ii) bail is granted once the recording of the oral evidence of the victim is complete by looking into some discrepancies here or there in the deposition and thereby testing the credibility of the victim.

16. We are of the view that the aforesaid is not a correct practice that the Courts be-low should adopt. Once the trial commences, it should be allowed to reach to its final conclusion which may either result in the conviction of the accused or acquittal of the accused. The moment the High Court exercises its discretion in favour of the accused and orders release of the accused on bail by looking into the deposition of the victim, it will have its own impact on the pending trial when it comes to appreciating the oral evidence of the victim. It is only in the event if the trial gets unduly delayed and that too for no fault on the part of the accused, the Court may be justified in ordering his release on bail on the ground that right of the accused to have a speedy trial has been infringed”

6. In view of the seriousness of the offence and the judgment of the Hon’ble Supreme Court in the case of **X vs. State of Rajasthan** (supra), I am not inclined to grant bail to the appellant.

7. Accordingly, the application stands dismissed.

8. The Superintendent of Police, Gaya is directed to ensure attendance of the witnesses in the trial so that the trial is not delayed.

9. Let a copy of this order be communicated to the Senior Superintendent of Police, Gaya for its compliance



through FAX or e-mail forthwith.

(Sandeep Kumar, J)

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