

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12343 of 2020

Arising Out of PS. Case No.-55 Year-2019 Thana- MAHILA P.S. District- Kishanganj

Md. Tausif @ Tausif aged about 45 YEAR S/O Late Wasif r/O VILL.
Aambari, p.s. garbandanga dist. Kishanganj.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Surendra Prasad Singh Adv

For the Opposite Party/s : Ms.Nirmala Kumari APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

7 25-08-2020 As of now the Courts have not resumed normal physical hearing, the matter has been listed today for consideration through the video conferencing.

Learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual Court proceedings from their homes, all with the aid of audio visual technology.

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

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The petitioner seeks bail in Mahila P. S. Case No P.S.



Case no. 55 of 2019 instituted for the offence under Section(s) 341, 323,376,313/34 of the Indian Penal Code and Section 4 of the POSCO Act.

The informant discovered that her daughter was carrying pregnancy. They have sought medical advice and on such discovery, the petitioner has been implicated as perpetrator of rape leading to the pregnancy of the informant's daughter aged about 12 years.

It is submitted by the petitioner's counsel that the allegation is an afterthought. The instant petitioner and the victim are cousins. There is pre existing dispute regarding partition of the common *Aangan* where both parties reside, arising out of which petitioner's daughter has also lodged a case against the prosecution party. It is submitted that from the opinion of the medical Board, it is apparent that the victim is aged between 17 to 18 years, and as such, the allegation under the POCSO Act, therefore, are false and baseless. It is further submitted that the petitioner, having no criminal antecedents, is in custody since 27.12.2019. It is further submitted that the manner in which the allegation has been made renders the entire prosecution case doubtful as the FIR has been lodged 14 to 16 weeks after the victim had conceived and further it is submitted



that the victim has been forced to name the petitioner by her mother and father on extraneous consideration.

Learned APP for the Sate opposed the prayer for bail.

Considering the aforesaid, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/-(Ten thousand) with two sureties of the like amount each to the satisfaction of the **Addl. District and Sessions Judge 1st cum Special Judge, Kishanganj**, in connection with **(Kishanganj) P.S. case No. 55 of 2019**, subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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