

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.21024 of 2020**

Arising Out of PS. Case No.-248 Year-2019 Thana- KASBA District- Purnia

MD. TASLIM S/o Mojibur Rahman @ Mujibur Rahman @ Md. Mojibur Rahman Resident of Molvi Tola, Shisha Bari, P.S-Sadar, District-Purnea.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Md. Fazle Karim, Advocate

For the Opposite Party/s : Mr. Umanath Mishra, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

7 24-09-2020 Heard learned counsel for the petitioner and Mr. Umanath Mishra, learned A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail bail in connection with Special (POCSO) Case No. 94 of 2019 arising out of Kasba P.S. Case No. 248 of 2019 registered for the offence under Section 376 of the Indian Penal Code, Section 4 of the POCSO Act and Section 4 of the Dowry Prohibition Act, pending in the court of learned Additional Sessions Judge - 1st – cum – Special Judge (POCSO), Purnea.

Learned counsel for the petitioner submits that the entire case is false, concocted and baseless and this has been purposely brought with an intention to pressurize the petitioner to marry the victim girl. Learned counsel submits that the alleged occurrence in this case is of 30.03.2019 whereas F.I.R.



has been lodged on 15.12.2019. In the medical examination the victim girl has been assessed at 16 – 17 years of age, therefore, it is not correct to say that the victim girl is 13 years old. It is further submitted that from the F.I.R. itself it would appear that the father of the victim girl is talking about a Panchayat held where this petitioner is said to have promised to marry the victim girl, but later on it is alleged that the family members of the petitioner refused for the said marriage without fulfilling the demand of Rs. 5 Lakhs. It is further submitted that on 26.06.2020 this Court had called for a report as to whether any ‘DNA’ Test has been conducted in the matter to connect the petitioner with the pregnancy of the victim girl. The report has been received and it appears that no ‘DNA’ Test has been conducted. Learned counsel submits that the “Malimath Committee” has suggested to bring reforms in Criminal Justice System by use of Forensic Science in Criminal investigation of rape cases. Under various provisions of Cr.P.C. and the Evidence Act ‘DNA’ profiling of an accused may be done. Relying upon the judgment of the Hon’ble Apex Court in the case of **Kamalanantha and others Vs. State of Tamilnadu** reported in **AIR 2005 SC 2132** and **Thograni Vs. State of Orissa** reported in **2004 (4) Crimes 76 (Ori.)**, learned counsel



submits that even Hon'ble Apex Court has held that in the cases of rape 'DNA' Test would be significantly helpful in resolving criminal cases. In the present case, if the 'DNA' Test is conducted, according to the learned counsel for the petitioner the truth will come out.

On the other hand, learned A.P.P. for the State has opposed the regular bail of the petitioner. It is submitted that on perusal of the statement of the victim girl made under Section 164 Cr.P.C. it would appear that there is a direct allegation of rape against this petitioner, moreover the medical examination report has shown a foetus of 33 weeks, therefore the statement of the victim girl supported by the medical examination report are important piece of evidence to connect the petitioner with the present case.

Having regard to the facts and circumstances of the case, in view of the statement of the victim girl and the medical examination report suggesting a foetus of 33 weeks, this court is not inclined to grant privilege of regular bail to the petitioner.

Prayer for regular bail of the petitioner is, thus, refused.

As regards the DNA Test, it is for the petitioner to seek advise in accordance with law and apply for the remedy



before appropriate court/forum/authority, as the case may be.

This Application is dismissed.

Let the trial be expedited.

The concerned POCSO Court shall conduct the trial
without granting unnecessary adjournments.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

