

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24530 of 2020

Arising Out of PS. Case No.-66 Year-2019 Thana- MAHILA P.S. District- Madhubani

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HARI JHA @ HARINATH JHA Son of Late Niraj Jha Resident of Village -
Baliya, P.S. - Sakari, District - Madhubani.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Om Prakash Kr., Adv.

For the Opposite Party/s : Mr. Aditya Narayan Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 05-11-2020 Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State through virtual court

proceedings.

The petitioner seeks bail in a case registered for the
offence punishable under Sections 376 of the Indian Penal Code
and Section 4/6 of the POCSO Act.

Prosecution case as lodged by the informant is that the
petitioner committed sexual assault on her minor daughter
(victim) few month ago, due to which she became pregnant. The
sexual assault was done on a regular basis, which was disclosed
after a long period by the victim, when the fetuses was
developed substantially. It is further alleged that when the
informant complained to the petitioner, he started beating her.

It has been submitted on behalf of the petitioner that



petitioner is innocent and has been falsely implicated in this case. He submits that allegations levelled against the petitioner is general and omnibus in nature. There is no specific date and time of the occurrence. He submits that FIR has been instituted after a prolonged delay of more than six months of pregnancy, i.e. 25 weeks, as apparent from the opinion of the Medical Board. He submits that Medical Board has ascertained her age without undergoing the radiology and ossification test as required. He further submits that an application for conducting DNA Test of the child born from the victim was filed by the petitioner before the Trial court on 20.01.2020 which was not considered. Learned counsel for the petitioner placed reliance on the judgment of the Hon'ble Supreme Court in the case of Jayanta Chatterjee Vs. The State of West Bengal, passed in Criminal Appeal No. 537 of 2020 (arising out of SLP (cri) No. 2844 of 2020.

Considering the facts and circumstances of the case as well as the fact that the facts of the aforesaid case is different from the facts of the present case and the fact that the witnesses have supported the prosecution case, I am not inclined to enlarge the petitioner on bail. Accordingly, his payer for bail is rejected in connection with Mahila P.S. Case No. 66 of 2019



pending before the court of the learned Additional Sessions
Judge-1st, Madhubani.

Accordingly, the application is dismissed.

(Anjani Kumar Sharan, J)

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