

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.27260 of 2020**

Arising Out of PS. Case No.-91 Year-2020 Thana- PURNEA SADAR District- Purnia

Md. Sahid Ansari @ Md. Shahid Ansari Son of Late Jahid Pescar Resident of
Village - Birpur, Lokhara, Ward No. 6, P.S.- Muffssil (Sadar), District –
Purnea Petitioner

Versus

The State of Bihar Opposite Party

Appearance :

For the Petitioner/s : Mr.N.K.Aggarwal, Sr.Advocate

Mr.Dr. Bidhu Ranjan,Advocate

For the Opposite Party/s : Mr.Akhileshwar Dayal, APP

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

4 09-12-2020 Heard Mr. N.K. Aggarwal, learned Senior Counsel

for the petitioner and Mr. Akhileshwar Dayal, learned APP for

the State who is present today and has appeared in this case.

The petitioner in the present case is seeking regular
bail in connection with Special (POCSO) Case No. 16 of 2020
arising out of Muffasil P.S. Case No. 91 of 2020 registered for
the offences punishable under Sections 376/34 of the Indian
Penal Code, Section 4 of POCSO Act.

Learned Senior Counsel for the petitioner submits that
the manner in which allegations have been made belatedly after
4 days, the whole prosecution story is unbelievable. It is
submitted that the victim girl is said to be minor but in fact it is
her own statement under Section 164 Cr.P.C. that she had



accompanied the petitioner to the court premises where she was taken by this petitioner for purpose of marriage. It is submitted that in such circumstance the gap of one year approximately in attaining the majority should not come in the way of the petitioner in getting bail as the advantage of 1-2 years in the age of the victim girl may be given in favour of the petitioner.

Learned APP for the State has opposed the prayer for regular bail of the petitioner. It is submitted that the victim girl has been found aged between 16-17 years and in terms of our Full Bench Judgment in the case of **Shikha Kumari** versus **State of Bihar and others** reported in **2020 (2) PLJR 15** the earlier Division Bench Judgment of **Sahebi Khatoon @ Sahebi** versus **State of Bihar and Others (Cr.W.J.C. No. 991 of 2010)** has been specifically overruled and it has been held that unless the victim girl is aged about 19 years medically and a finding to that effect is there in absence of any certificate of her age, she cannot be taken to be major.

It is further submitted that the victim girl has specifically alleged that this petitioner had taken her and kept her confined administering some sort of intoxicated substance and then in her 161 Cr.P.C. statement she had stated that she was repeatedly raped.



Having regard to the facts and circumstances of the case and the seriousness of the offences alleged as also that the materials before the Court in the form of statement of the victim girl and other materials, this Court is not inclined to grant privilege of regular bail to the petitioner.

The prayer for regular bail of the petitioner is, thus, refused.

Let the trial be expedited.

The application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

SUSHMA2/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'.

