

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.84653 of 2019**

Arising Out of PS. Case No.-23 Year-2019 Thana- SATHI District- West Champaran

Banarsi Sah, Son of Late Jamuna Sah, Resident of Village- Babhta, P.S.-
Sathi, District- West Champaran. Petitioner

Versus

The State of Bihar Opposite Party

Appearance :

For the Petitioner/s	:	Mr. P.K. Shahi, Sr. Advocate Mr. Manoj Kumar Singh, Advocate
For the Opposite Party/s	:	Mr.Narsingh Tanti, A.P.P.
For the Informant	:	Mr. Mahtab Alam, Advocate

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

10 02-07-2020 Heard Mr. P.K. Shahi, learned Senior Counsel assisted by Mr. Manoj Kumar Singh, learned counsel on behalf of the petitioner, Mr. Narsingh Tanti, learned A.P.P. for the State and Mr. Mahtab Alam, learned counsel appearing on behalf of the informant.

Petitioner in the present case is seeking regular bail in connection with Sathi P.S. Case No. 23 of 2019 registered for the offences punishable under Sections 376 and 506 of the Indian Penal Code and Sections 4 and 8 of POCSO Act.

Learned Senior Counsel for the petitioner submits that in the First Information Report it is alleged by the father of the victim girl that in his absence his daughter was violated by this petitioner, she became pregnant and informed him that while he was not in his house his neighbour (this petitioner) had



allured her, brought her to his house and raped her. He had also threatened the victim girl not to disclose the same and this feature continued over the period but when the victim girl became pregnant she informed her mother about the alleged rape.

It is the contention of learned Senior Counsel that the victim girl is not a minor and in this connection he has referred a School Leaving Certificate annexed as Annexure '5' to the present application showing her date of birth 19.03.1999. It is his further submission that the petitioner is a close agnate of the informant, both the petitioner and the informant are in the same business, the petitioner happens to be the grand-father of the victim girl in relation and in course of investigation some independent witnesses whose statements have been recorded in paragraph '143' and '145' of the case diary have stated that this petitioner is a simple person whereas the victim girl was talking to a number of persons in absence of her father. It has been submitted that in course of investigation Police did not find sufficient material to proceed against the petitioner for the offence under Sections 4 and 8 of the POCSO Act. It is also submitted that the victim girl has been examined under Section 164 Cr.P.C. but in presence of her father therefore her statement



under Section 164 Cr.P.C. should not be taken into consideration.

Learned A.P.P. for the State as well as learned counsel for the informant have opposed the prayer for regular bail of the petitioner. It is submitted that the victim girl has categorically stated that this petitioner had taken her to his house on allurement and had raped her repeatedly which resulted in the pregnancy. It is submitted that although the petitioner may be in relation of grand-father but he is aged about 40 years only and in the family it happens that agnates are related as grand-father or great grand-father. It is further submitted that the learned court below had taken cognizance of the offence under the provisions of the POCSO Act also and later on a discharge petition filed by the petitioner was rejected by the learned court below. It is submitted that the School Leaving Certificate which has been brought on record as Annexure '5' is a forged and fabricated document.

Having regard to the facts and circumstances of the case, where this Court has noticed from the First Information Report that there is a direct allegation of repeatedly raping the victim girl and the victim girl has become pregnant as a result thereof, she disclosed this fact later on to her mother and it



seems difficult to accept at this stage while considering the prayer for bail of the petitioner that the victim girl who became pregnant would involve a person who was actually not involved in rape leaving the real culprit. Learned A.P.P. for the State has submitted that in the case diary independent witness in paragraph '10' has supported the allegation.

Considering these materials on the record and that the allegations are that of committing of heinous crime, this Court is not inclined to grant regular bail to the petitioner at this stage. The Court is also of the view that the release of the petitioner at this stage may result in intimidation to the witnesses and may influence the trial. Prayer for regular bail is, thus, refused.

The application is dismissed.

Let the trial be expedited.

(Rajeev Ranjan Prasad, J)

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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'.

