

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.12863 of 2021**

Arising Out of PS. Case No.-205 Year-2020 Thana- BABUBARHI District- Madhubani

Md. Ishad @ Irshad S/O Md. Domi Miyan R/O Village Bagha Kushmar, P.S.
Khutauna, District Madhubani

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Radheshyam Sharma, Advocate

For the Opposite Party/s : Mr.B.N. Pandey, APP

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

3 25-08-2021 Heard learned counsel for the petitioner and Mr.
Brajendra Nath Pandey, learned A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail in connection with Babubarhi P.S. Case No. 205 of 2020 registered for the offence under Section 363, 366(A) of the Indian Penal Code and subsequently charge-sheet was submitted under Section 376 of the Indian Penal Code and under Section 4 of the Protection of Children from Sexual Offences Act (in short the “POCSO Act”). He is in custody since 27.07.2020.

As per the prosecution story, the minor daughter of the informant had gone to market but she did not return home, the informant came to know that this petitioner has allured his daughter and has taken away on a Tempo. It is alleged that when the informant went to the house of the petitioner, the father of

the petitioner told him that his daughter will be returned within 2-3 days.

Learned counsel for the petitioner submits that the victim girl is no doubt minor but when she came back, her statement was recorded under Section 161 Cr.P.C. in which she did not make any allegation of commission of rape against the petitioner. She has stated that there was a love affair between the petitioner and the victim girl for about two years. She was arrested by police on 21.07.2020 together with this petitioner.

Learned counsel submits that after one month the victim girl's statement was recorded under Section 164 Cr.P.C. in which she has stated that she was taken to a Hotel by the petitioner where she was kept for about two days and then the petitioner took her to his house where it was found that he had his wife and child also. The petitioner forced the victim to marry him but the victim girl did not agree. She alleged that the petitioner was disclosing himself as a Hindu male and had established physical relationship with her in the Hotel.

Learned counsel submits that the statement was recorded after about one month which throws a shadow of doubt upon the prosecution case.

On the other hand, Mr. B.N. Pandey, learned A.P.P. for

the State has opposed the prayer for bail of the petitioner. Learned counsel submits that admittedly the daughter of the informant is about 14 years old and this petitioner is not only a major male rather he was married and has got child out of his marriage, under these circumstances the allegation that he allured the minor girl and then took her to a Hotel and established physical relationship with her disclosing himself a Hindu male is a very serious kind of allegation and the statement of the victim girl gains significance.

Considering the facts and circumstances of the case, the materials showing that the victim girl is aged about 14 years whereas this petitioner is major and married person who had allured the minor girl and then had allegedly established physical relationship with her keeping her in a Hotel, this Court is not inclined to release the petitioner on bail.

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

Let the trial be expedited.

(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'.