

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13755 of 2021**

Arising Out of PS. Case No.-64 Year-2019 Thana- SINGHWARA District- Darbhanga

Mahmood Ali, aged about 19 years, male, Son of Haider Ali @ Ali Haidar
Resident of Village - Hayatpur, P.S.- Singhwara, District - Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Iqbal Asif Niazi, Adv.

For the Opposite Party/s : Mr. Manoj Kumar No.1, APP

**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER**

6 05-10-2021 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor (for short 'APP') for the State.

Learned counsel for the petitioner is expected to honour his undertaking given in the instant case for depositing the requisite court fee and to remove the defects as pointed out by office when called upon to do so by the office.

The petitioner seeks bail in Singhwara PS Case No. 64 of 2019, instituted for the offence under Sections 376 of the Indian Penal Code and Section 4 of the POCSO Act.

The deaf and mute minor daughter of the informant has allegedly been taken away and ravished by the instant petitioner.

It is submitted by petitioner's counsel that there is some misunderstanding regarding the communication of the victim by sign language which has led to lodging of the F.I.R.No rape has



been committed and the same is apparent from the report upon the Medical Examination of the victim which was conducted one day after the alleged occurrence. The doctor has not found any sign of intercourse and external or internal injury on any part of the body. As per prosecution case, the petitioner fled away on alarm being raised by one Akhtari Begam, who at the trial, has deposed that she came to know about the occurrence on the next day after the alleged occurrence. Falsity of the allegation is apparent from these facts. Apparently, implication is based on misunderstanding. The petitioner is stated to a man of clean antecedents and further submission is that the F.I.R. also has been lodged next day after the alleged occurrence which is clear indication of the implication based on misunderstanding. The doctor has assessed the age of the victim between 16 to 17 years. The petitioner is in custody since 18.05.2019. It is further submitted that prosecution witnesses are not forthcoming at the trial.

The learned APP representing the State has opposed the prayer for bail. It is submitted that the specific allegation against the petitioner is of committing rape upon a deaf and mute minor girl of the informant.

Considering the rival submissions as also the facts and



circumstances of the case, this Court, for the purposes of grant of bail, is inclined to accept the submissions advanced by the petitioner's counsel. Prayer for bail of the petitioner is allowed. Let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge-cum-Special Judge, POCSO Act, Darbhanga, in connection with Singhwara P. S. Case No. 64 of 2019, subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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