

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14858 of 2021

Arising Out of PS. Case No.-150 Year-2020 Thana- GOPALPUR District- West Champaran

Gasmuddin Miyan @ Gaismuddin Mian, Son of Israyal Miyan, Resident of
Village - Chhardawali, P.S.- Gopalpur, District - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Brij Kishor Mishra, Advocate

For the Opposite Party/s : Mr.Binod Kumar, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

5 27-09-2021 Heard learned counsel for the petitioner and the
learned APP for the State.

The petitioner seeks bail in connection with
Gopalpur P.S. Case No.150 of 2020 registered for the offence
punishable under Sections 376(AB) of the Indian Penal Code
and Sections 4, 6 of the POCSO Act.

The informant has alleged that while his daughter,
12 years old, was alone at home, the instant petitioner has
committed rape.

Counsel for the petitioner submits that the petitioner
is own uncle of the victim and brother of the informant. To
pressurize the petitioner to relinquish his claim over homestead
land, he has falsely been implicated. Falsity of the allegation is
borne from the fact that the medical evidence belies the



allegation of rape. Even the age of the victim, which is stated to be 12 years, has been assessed by the court to be 15 years and medical assessment in respect of the same is 16 to 17 years. Petitioner is in custody since 21.08.2020 and stated to be a man of clean antecedents.

Learned APP for the State has opposed the prayer for bail.

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 learned Additional District & Sessions Judge-6th-Cum-Special Judge (POCSO), Bettiah, District-West Champaran, in connection with Gopalpur P.S. Case No.150 of 2020, 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.

This Court would expect that the petitioner's counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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