

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16142 of 2021

Arising Out of PS. Case No.-19 Year-2020 Thana- MAHILA P.S. District- Saharsa

DILIP YADAV Son of - Mahendra Prasad Yadav @ Mahendra Yadav
Resident of Village- Siradai Patti, P.S.- Saharsa, District- Saharsa.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Chandra Mohan Jha, Advocate

For the Opposite Party/s : Mr.Satyendra Narayan Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 08-10-2021 Heard learned counsel for the petitioner and Mr.
Satyendra Narayan Singh, APP for the State.

Petitioner, in the present case, is seeking Regular bail in connection with POCSO Case No. 38 of 2020 arising out of Mahila P.S. Case No. 19 of 2020 registered for the offence under Section 341, 376AB, 506 of the Indian Penal Code, Section 4 of the Protection of Children from Sexual Offences Act and Section 3(i)(w)(ii) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. He is in custody since 05.09.2020 having no criminal antecedent.

The allegation against the petitioner is that he committed rape on the victim girl while she had gone to graze her she-goat towards the south east side in the field from her house. This victim is a minor aged between 14 – 16 years as per the medical report. It is alleged that this petitioner was going by a



motorcycle, when the victim reached near the bridge he forcibly closed her mouth and took her near Basbitti where he committed rape on her. He also threatened her that if she would disclose the alleged occurrence then she would be killed. The victim disclosed this fact to her mother and other family members whereafter she was taken to the police station.

Learned counsel for the petitioner submits that the alleged occurrence is said to have taken place on Tuesday at about 5:00 P.M., the present F.I.R. has been lodged on 01.09.2020, however the victim has not disclosed the date on which the occurrence took place.

It is his further submission that in course of investigation it has come that the victim had taken her she-goat in the field of this petitioner for which the petitioner had scolded her and had given some slaps. This was witnessed by the co-villager namely Rina Yadav (Para 9 of the case diary) and Sanjay Yadav (para 58 of the case diary).

Learned counsel further submits that all other witnesses are hearsay and nobody has seen the petitioner taking away the victim girl forcibly. It is his further submission that the medical report does not indicate commission of any sexual act as no injury has been found save and except one abrasion on the right foot. It is submitted that the petitioner is languishing in jail for over one



year, investigation against him is complete, hence he may be released on bail.

Mr. Satyendra Narayan Singh, learned A.P.P. for the State has, on the other hand, opposed the prayer for bail of the petitioner. It is submitted that the victim girl is minor and there is no reason that only for the fact that the petitioner scolded her while grazing the she-goat would she lodge F.I.R. making herself a victim of rape.

Learned counsel submits that the medical examination report is not conclusive on the point whether sexual act was committed or not. Further the fact that an abrasion on the right foot has been found in the medical report and the undergarment of the victim was sent to the Forensic Science Laboratory (in short 'F.S.L.') and there is a report of the F.S.L. indicating that blood has been detected over small areas on the cloth and the serological report says that it was human blood further indicate that the victim has been subjected to rape.

It is further submitted that the victim had gone to the police station on the same day at about 8:00 P.M. with her family members and that further indicates that the genuineness of the complaint.

Having regard to the facts and circumstances of the case, the allegation against the petitioner is that of commission of



rape and penetrating sexual act against a minor and there is some material in form of injury on the right foot of the victim and further the blood mark have been found on the pant (Exhibit A) which is that of a human and the statement of the victim has been recorded without loss of time, in the materials placed before this Court, the 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. The trial court is expected to proceed with the trial as early as possible, record the statement of the victim without losing time and conclude the trial within the scheme of Protection of Children from Sexual Offence Act (in short “POCSO Act”) within the time frame.

If the trial remains unconcluded for no reason attributable to the petitioner within a period of one year from the date of communication of this order and after statement of the victim is recorded, if so advised, the petitioner may renew his prayer for bail.

(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'.

