

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16582 of 2021**

Arising Out of PS. Case No.-149 Year-2020 Thana- HABIBPUR District- Bhagalpur

Pandav Kumar (Male), aged about 25 years, Son of Srilal Mandal @ Siriya @ Shree Lal Mahaldar Resident of Village - Hussainabad, P.S.- Mojahidpur (Babarganj), Distt.- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Praveen Kumar, Adv.

For the Opposite Party/s : Ms. Sharda Kumari, APP.

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

3 29-10-2021 The matter has been listed today for consideration through Video Conferencing.

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 POCSO Case No. 130 of 2020 arising out of Habibpur P. S. Case No. 149 of 2020, instituted for the offence under Section 376 of the Indian Penal Code.

The informant aged 19 years, as per her statement in the '*Fardbeyan*', has alleged that the petitioner (friend of her



brother) has been visiting for the last three years. She has alleged that two years back he has started exploiting her on the allurements and assurance of solemnizing marriage. She has alleged that, in the meantime, the petitioner has also facilitated abortion of unwanted foetus arising out of the relation between the parties.

Petitioner's counsel submits that even as per First Information Report (for brevity 'FIR'), the victim was aged 19 years at the time of lodging of the FIR. On extraneous consideration, she has levelled the allegation regarding sexual intercourse having taken place for a period of two years prior to lodging of the FIR so as to ensure that the accusation are made also under the provisions of the POCSO Act merely for aggravating the consequences. Under such circumstances, the petitioner has remained in custody since 03.10.2020 though he has no criminal antecedents. The informant has refused to subject herself to medical examination also and from the FIR itself it is apparent that the '*Sarpanch*' had also been approached for ensuring marriage of the parties and only upon failure of such efforts, the prosecution has been launched. The further submission is that the petitioner also was a young person. At the time, he has a career and has become a victim of the



circumstances only to coerce a marital resolve based on the FIR.

The learned APP representing the State has opposed the prayer for bail. It is submitted that the informant has levelled specific allegation against the petitioner.

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 Additional District and Sessions Judge-VI-cum- Exclusive Special Judge POCSO Act, Bhagalpur, in connection with POCSO Case No. 130 of 2020, arising out of Habibpur PS Case No. 149 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.

(Madhuresh Prasad, J)

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