

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18909 of 2021

Arising Out of PS. Case No.-24 Year-2016 Thana- MAHILA P.S. District- Araria

Umesh Singh son of Bidyanand Singh R/O Village- Terdikar Parasi
(Pagdhere) P.S- Kursakanta (Sonamani Godam) District - Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ramesh Kumar Singh

For the Opposite Party/s : Mr. Anant Kumar A.P.P.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2. 12-07-2021 Heard learned counsel for the parties through video conferencing.

The petitioner seeks bail in Araria (Mahila) P.S. Case No. 24 of 2016, corresponding to Spl. (SC/ST) POCSO Case No. 36 of 2017, registered for the offence under Section 376 of the Indian Penal Code, Section 8 of the POCSO Act and Section 3(i)(xii), 3 (2)(v) of the SC/ST Act.

As per the prosecution case, this petitioner is alleged to have committed repeated sexual intercourse with the victim (informant) on false promise of marriage, resulting in pregnancy.

It is submitted on behalf of petitioner that as per FIR, this petitioner is alleged to have made physical relation with the victim five months ago and present case has been lodged after a



delay of five months. It is further submitted that the physical relationship was consensual and as such, the allegation against the petitioner does not come under the purview of Section 376 of the I.P.C. It is further submitted that the victim is major and as such, POCSO Act would not be applicable in the case. Petitioner claims clean antecedent and he is in custody since 29.01.2020.

However, learned A.P.P. for the State vehemently opposed the bail petition and submitted that there is specific allegation against the petitioner of committing repeated sexual intercourse on the false promise of marriage, which fact has duly been supported by the victim (informant) in her statement recorded under Section 164 of the Cr.P.C. The doctor has found her pregnant and assessed her age between 15-17 years.

Considering the nature and gravity of the offence as well as statement of the victim recorded under Section 164 of the Cr.P.C. and medical report, I am not inclined to grant bail to the petitioner and same is, accordingly, rejected.

(Prabhat Kumar Singh, J.)

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