

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.23614 of 2021**

Arising Out of PS. Case No.-3 Year-2021 Thana- MAHILA P.S. District- Kaimur (Bhabua)

JUMMAN QURAISHI SON OF EKRAM QURAISHI RESIDENT OF
VILLAGE- DUMARI, P.S.- DURGAWATI, DISTT.- KAIMUR (BHABUA)

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. P.K. Shahi, Sr. Advocate
	:	Mr. Ravi Shankar Sahay, Advocate
For the Opposite Party/s	:	Mr. Raj Ballabh Singh, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 20-09-2021 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard Mr. P.K. Shahi, learned senior counsel assisted by Mr. Ravi Shankar Sahay, learned counsel for the petitioner and Mr. Raj Ballabh Singh, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Mahila Bhabhua P.S. Case No. 03 of 2021 registered for the offences punishable under Sections 376 of the Indian Penal Code and 04 of the Protection of Children from Sexual Offences (POCSO) Act.

As per the prosecution story, on 07.01.2021 when the informant's father had gone to meet his one of the friends saying

that he was going to purchase sweets, on finding her alone the petitioner committed rape upon her. He was caught and then was brought to the police station.

Learned senior counsel for the petitioner submits that in her subsequent statement before police the informant came with a different version. She made statement that she was in deep love with one Arman Miya. On the date of alleged occurrence in absence of her father who was a truck driver and used to remain out of station most of the time, on a call from said Arman she had gone to meet him at a bus stand who told her that she should go back to her room and thereafter she, the said Arman Miya and his friend (petitioner) visited the victim to her room. At this stage Arman Miya went out of room but did not return, in the meantime some persons knocked the door and on opening the door she found that two persons who were outsiders were looking for her father and on finding the petitioner in her room they informed her father over the telephone. Her father arrived and thereafter on the next day her father brought them to the local police station and lodged the case.

Learned senior counsel submits that at this stage the victim girl and her father both have been examined. In course of

trial the victim girl has not identified this petitioner and she has made statement that on asking of some neighbours she had lodged the case. Learned senior counsel has drawn the attention of this Court towards her examination-in-chief and the cross-examination and has further placed before this Court the evidence of her father who has also come out with a different version. It is his submission that considering this aspect of the matter and the fact that the victim and her father have already been cross-examined and the petitioner has not been identified, he is in custody for nine months approximately in connection with this case, he deserves privilege of regular bail at this stage.

Learned senior counsel has further submitted that in the medical examination report the victim girl has been found aged between eighteen-twenty years, therefore she is major and in such circumstances the provisions of POCSO Act may perhaps be not attracted.

Mr. Raj Ballabh Singh, learned A.P.P. for the State has received the complete brief including the subsequent affidavit filed on behalf of the petitioner. Learned A.P.P. has though opposed the prayer for bail of the petitioner saying that the allegations against the petitioner are that of commission of rape but does not dispute the materials such as the Medical Board's

report showing the age determination of the victim between eighteen-twenty years and that the victim girl/informant has not identified this petitioner and she has specifically stated that she had lodged the case under pressure and no such occurrence had taken place with her.

Considering the facts and circumstances of the case and the kind of materials which have been noticed hereinabove, the age of the victim girl/informant and the fact that she has not identified the petitioner and at this stage there is no chance of tampering with the evidence or interfering with the course of trial, and there being no such submission against the petitioner, let the petitioner above named be released on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-VI-cum-Special Judge, POCSO Act, Kaimur at Bhabua in connection with POCSO Case No. 04 of 2021 arising out of Mahila Bhabhua P.S. Case No. 03 of 2021 subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that after release on bail, the petitioner shall not come in contact with the informant/victim and her family during trial and violation of this condition shall

invite action towards cancellation of bail.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

This application stands disposed of accordingly.

(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'.