

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38670 of 2021

Arising Out of PS. Case No.-43 Year-2020 Thana- MAHILA PS District- Darbhanga

Shankar Paswan, Son of Dilip Paswan, Resident of Village - Chakka Lahwar,
P.S.- Keoti, District - Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anjani Kumar Sinha, Advocate
For the Opposite Party/s : Mr.Nitya Nand Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 14-12-2021 Heard learned counsel for the petitioner and the
learned APP for the State.

The petitioner seeks bail in connection with Mahila
P.S. Case No.43 of 2020 (G.R. No.43 of 2020) registered for the
offence punishable under Section 376(3) of the I.P.C. and
Section 4/6 of the POCSO Act.

The victim (informant) has alleged that while her
mother was away from home, the instant petitioner has sexually
exploited her.

Petitioner's counsel submits that, in fact, the
petitioner is the victim. He was brutally assaulted and efforts
were made to forcibly solemnize marriage of the petitioner with
the victim, for which Keoti P.S. Case No.98 of 2020 was lodged



on 10.08.2020. Three days thereafter, the instant case has been lodged to stifle the prosecution arising out of Keoti P.S. Case No.98 of 2020. He submits that the informant is, in fact, a major. It is also submitted that the medical examination of the informant does not corroborate the allegation of sexual exploitation. In fact, it belies the prosecution case. In so far as the allegation that the informant claims to be a minor is concerned, the same is also falsified as the medical report has placed her between 16-17 years, whereas based on Aadhar card of the victim, she is a major. It is submitted that in the aforesaid circumstances, offences under the POCSO Act would not be made out against the petitioner, who has no criminal antecedents and is stated to be in custody since 17.08.2020.

Counsel submits that the petitioner would fully co-operate by making himself available at the trial on each and every date.

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

Considering the rival submission 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.

Accordingly, 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 Special Judge, POCSO Act, Darbhanga, in connection with Mahila P.S. Case No.43 of 2020 (G.R. No.43 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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