

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 10928 of 2021**

Arising Out of PS. Case No.-476 Year-2020 Thana- SARAIYA District- Muzaffarpur

ANIL KUMAR @ ANIL BHAGAT @ BHIKHARI BHAGAT SON OF
RAMVARAN BHAGAT RESIDENT OF VILLAGE- BIRPUR, P.S.-
SARAIYA, DIST- MUZAFFARPUR.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : M/s Ansul, Anuj Kr, Sagrika, Advocates

For the Opposite Party/s : Ms Asha Kumari, APP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

6 12-08-2021 This case has been taken up for consideration today
through Video Conferencing.

Heard learned counsel for the petitioner and the
learned Additional Public Prosecutor (for brevity, APP)
appearing for the State of Bihar.

The petitioner seeks bail in Saraiya Police Station
Case No 476 of 2020 dated 22.07.2020 instituted for the offence
punishable under Section 376 of Indian Penal Code and
Sections 4/8 of Protection of Children from Sexual Offences
Act.

The petitioner has raped the informant's minor
daughter while he had asked the informant to prepare tea.
Allegation is that the informant has seen the occurrence and,



thereafter, she has raised alarm whereby local persons have gathered and many have seen the blood-stained clothes of the victim immediately after the occurrence.

It is submitted by the petitioner's counsel that petitioner is a schizophrenic. Some prescriptions have been placed on record to show that he has been medically examined for the said condition. He submits that the prosecution case is false and motivated and the petitioner has been falsely implicated in this case. The age of the victim is also not clear from the medical examination and the petitioner is in custody since 23.07.2020.

Learned APP has assisted the Court with reference to the case diary. Paragraphs 3, 9, 10 and 11 of case diary are suggesting the petitioner's guilt inasmuch as the victim (who is mute) has pointed towards the petitioner as the perpetrator and other neighbours have also stated about seeing the blood-stained clothes of the victim.

Considering the rival submissions, this Court would observe that the age of the victim and the psychological condition of the petitioner are issues for which the petitioner would have adequate opportunity at the trial.

Having regard to the material, which has in the course



of investigation, this Court, for the present, is not inclined to allow the prayer for bail. The same is rejected with a direction to the trial Court to proceed with the trial expeditiously without any undue delay or unnecessary adjournments, needless to say, giving due opportunity in the matter.

Learned counsel for the petitioner is expected to honour his undertaking given in the instant proceedings today for depositing requisite Court fee and removing the defect (s), as pointed out, when called upon to do so.

(Madhuresh Prasad, J)

M.E.H./-

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