

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7747 of 2021

Arising Out of PS. Case No.-125 Year-2020 Thana- KASBA District- Purnia

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Mohammad Shahnawaz, aged 22 years, male, Son of Mohammed Sarvar Alam, R/o Vill.- Kushvaha Dargah Tola, P.S.- Kasba, Dist.- Purnia.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner	:	Mr. N.K. Agrawal, Senior Advocate
		Mr. Vikram Singh, Advocate
For the State	:	Mr. Satyendra Narayan Singh, APP
For the Informant	:	Md. Hussain, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 07-09-2021 Heard Mr. N.K. Agrawal, the learned Senior Counsel for the petitioner assisted by Mr. Vikram Singh, the learned APP for the State and Md. Hussain, the learned counsel appearing on behalf of the informant through virtual court proceedings.

Learned Senior Counsel for the petitioner undertakes to remove the defects within three weeks of resumption of normal court proceeding. In the eventuality of non-removal of defects within undertaken period, the office will place the matter before the Bench.

The petitioner seeks bail in a case registered for the offence punishable under Section 376 of the Indian Penal Code as well as under Section 4 of POCSO Act.

Md. Anzar Alam, father of the victim, alleged that on



16.09.2020 at 12.20 A.M., Md. Sohail Akhtar and Md. Shahnawaz, petitioner, entered into his house by cutting Tati and brought her daughter forcibly in a Madarsa and after removing her clothes, Md. Sohail Akhtar forcibly committed rape upon her. Md. Sohail Akhtar and Shahnawaz also tried to killed the victim by pressing her neck. When persons went to Madarsa, they saw the victim lying there. Md. Sohail Akhtar was apprehended on the spot and Md. Shahnawaz, the petitioner fled away from the spot.

Learned Senior Counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. He further submits that the petitioner is made co-accused in this case and allegation of rape is against Md. Sohail Akhtar. Md. Sohail Akhtar was declared juvenile by Juvenile Justice Board. The only allegation against the petitioner is that he was also present at the place of occurrence. The statement of the victim was recorded under Section 164 Cr.P.C. in which she made allegation of rape against Md. Sohail Akhtar. The petitioner is in custody since 23.11.2020 and he has got no criminal antecedent as stated in para 3 of the bail petition. It is further submitted that no sign of rape was found by the doctor and, as such, no case made is made out against the petitioner. The age of the victim girl is opined to be 16 to 17 years.

Learned APP for the State and the learned counsel



appearing on behalf of the informant vehemently opposed the prayer for bail of the petitioner.

Having considered the facts aforesaid, let petitioner, above named, be released on bail on furnishing bail bond of Rs.25,000/- (rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned court below/successor court where the case is pending in connection with Special POCSO Case/CIS No.63/2020, arising out of Kasba P.S. Case No.125 of 2020, subject to the conditions:

(1) 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. He will also undertake to inform the court, if there is any change in the address of the petitioner.

(2) That the bailor shall also state on affidavit that he will inform the court concerned, if the petitioner is implicated in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate proceeding for cancellation of bail on the ground of misuse.

(3) That the petitioner will be well represented on each and every date fixed in the case and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(4) That the petitioner shall co-operate with the investigation, if not already concluded and make himself available



as and when required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(Anjani Kumar Sharan, J)

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