

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5405 of 2022

Arising Out of PS. Case No.-1020 Year-2021 Thana- KHAJANCHI HAT District- Purnia

Kundan Srivastva @ Kundan Prasad Srivastva, Son Of Late Nand Kishore Srivastava, Resident Of Mohalla- Sharda Nagar, Ward No. 12, P.S.- K. Hat (Sahayak), District- Purnea

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. N.K. Agrawal, Sr. Advocate
Mr. Amit Kumar Anand, Advocate
For the Opposite Party/s : Mrs. Usha Kumari 1, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 07-12-2022 Heard learned senior counsel for the petitioner and learned APP for the State.

In the present case, the petitioner seeks bail in connection with Special (POCSO) Case No.92 of 2021, arising out of K. Hat (Sahayak) P.S. Case No. 1020 of 2021, registered for the alleged offences under Sections 376 (AB) of the Indian Penal Code, Sections 4/6 of POCSO Act and Section 3 (2) (a) of SC/ST (POA) Act.

As per prosecution case, the petitioner committed rape with the minor daughter of the informant and threatened her with life.

The learned senior counsel appearing on behalf of the petitioner submits that the petitioner has been falsely implicated



in this case as the husband of the informant is a '*Rajmistri*' who used to take construction work on contract basis and the house of the petitioner was being constructed by him and some dispute arose over payment and the informant dragged the petitioner in this false and fabricated case. The learned senior counsel further submits that the informant has not described in detail the manner in which the occurrence took place and how she came in contact with the petitioner. The medical report does not support the prosecution story. The learned senior counsel further submits that the statement recorded under Section 164 Cr.P.C. does not show commission of rape. All the witnesses are interested witnesses. The petitioner is in custody since 30.10.2021 and the charge sheet has been submitted. The petitioner has got no criminal history.

Learned APP opposes the prayer for bail submitting that there is specific allegation against the petitioner in the FIR and the said allegation is duly supported by the witnesses examined during investigation and also by the victim girl in her statement recorded under Section 161 Cr.P.C. as well as Section 164 Cr.P.C. The learned APP further submits that in the statement recorded under Section 164 Cr.P.C., though the victim has not stated in specific words about the commission of rape,



but whatever has been stated by her, it is evident that the rape has been committed with her.

Perused the records.

Having regard to the facts and circumstances and considering the nature of allegation against the petitioner which I find quite serious and reprehensible, I am not inclined to enlarge the petitioner on bail.

Accordingly, his prayer for bail is rejected.

The learned trial court is directed to expedite the trial and conclude the same at the earliest under the mandate of POCSO Act.

(Arun Kumar Jha, J)

V.K. Pandey/-

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