

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5557 of 2022

Arising Out of PS. Case No.-50 Year-2021 Thana- ADHAOURA District- Kaimur (Bhabua)

MD. GULAM MURSHID Son of Badruddin Sheikh Yusuf Resident of
Village - Nabinagar (Maldah Sardar Tola), P.S. - Kaliyachak, District- Maldah
(West Bengal).

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Parwej Khan

For the Opposite Party/s : Mr.Sunil Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 02-08-2022 Let the defect(s), as pointed out by the office, be
removed within a period of four weeks from today.

Heard learned counsel for the petitioner and
learned A.P.P. for the State.

The petitioner seeks bail in connection with
POCSO case No. 01 of 2022 arising out of Adhuara P.S. Case
No. 50 of 2021 registered for the offences punishable under
Sections 302, 34, 376 and 511 of the Indian Penal Code and
Sections 4 of the POCSO Act.

As per prosecution case, the informant has stated
that he runs the shop of tea and pakodi and it is further stated
that informant's daughter and other children went to the school
for charging the mobile phone in emergency light. During the



course, the petitioner and others also followed the informant's daughter and it is further alleged that on 07.10.2021 at 7.00 AM, it was informed by labour that the dead body of the informant's daughter was lying beside the boundary of newly constructed building. It is alleged that there is accusation against co-accused Abdul Qurban that he used to show the video on mobile phone to informant's daughter and try to take the informant's daughter in lap and he used to give opportunity for making the informant's daughter as his daughter-in law. It is claimed by informant that petitioner and co-accused Abdul Qurban committed the murder of his daughter by committing rape on her.

Learned counsel for the petitioner submits that petitioner is in custody since 08.10.2021, petitioner bears no criminal antecedent. Charge sheet has already been submitted and there is no likelihood of tampering with the prosecution evidence. Learned counsel further submits that there is no eye witness to the occurrence and Investigating Officer has submitted final form showing that petitioner is not involved in any manner. No incriminating material has been found even observing through technical support i.e. CCTV footage and other sources. After long and proper investigation, it is found



that no occurrence has been committed by the petitioner. Even in the cognizance order dated 04.01.2022 nothing has been shown for taking cognizance against the petitioner.

The learned A.P.P. for the State opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, period of custody, keeping in view clean antecedent of petitioner, police has submitted the final form against the petitioner, the argument advanced on behalf of both counsels and also taking into consideration the material available on record, let the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge POCSO Act, Kaimur, Bhabhua in connection with POCSO Case No. 01 of 2022 arising out of Adhuara P.S. Case No. 50 of 2021, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive



dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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