

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10526 of 2022

Arising Out of PS. Case No.-47 Year-2021 Thana- MAHILA P.S. District- Sheikhpura

VINOD CHAUHAN S/o Prithviraj Chauhan R/o village- Tarapur, P.S.-
Ariyari, District- Sheikhpura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Ansul Kumar, Advocate
For the Opposite Party/s	:	Mr.Dr.Mrityunjaya Kr.Gautam, APP
For the Informant	:	Mr.Pankaj Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 28-11-2022 Heard learned counsel appearing on behalf of the
petitioner and learned APP appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with
Sheikhpura Mahila P.S. Case No. 47 of 2021 registered for the
offence under Sections 376, 448, 504, 506 and 34 of the Indian
Penal Code and Section 4 of the POCSO Act, and 67 of the
Information Technology Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 23.09.2021.

The allegation against the petitioner is to commit rape
/penetrative sexual assault upon minor daughter, aged about 12
years, of the informant and also to make a video of the
occurrence, which later on made viral damaging the social



reputation of the victim.

Learned counsel appearing on behalf of the petitioner submitted that victim was in friendly terms with the petitioner and due to certain misunderstanding of the fact, the present false case has been lodged against this petitioner. It is submitted that no physical violence has been noticed during medical examination of the victim except that hymen found ruptured and recent sexual intercourse was noticed, which only suggest that allegation of rape/penetrative sexual assault is false and same was consensual on its face. It is further submitted that age of the victim appears about 16 to 17 years, as per medical examination contrary to the fact as set out through FIR, suggesting age of victim as 12 years. While concluding the argument, it is submitted that charges have already been framed in this case, as such, there is no chance of tampering with the evidence.

Learned APP duly assisted by learned counsel for the informant, while opposing the prayer of bail submitted that there is specific allegation of rape/penetrative sexual assault against this petitioner, as per statement of the victim recorded under Section 164 of the Cr.P.C. It is further submitted that non-finding of injury does not make conclusion, *ipso facto*, that rape/penetrative sexual assault was not committed upon.



In view of the facts and circumstances as mentioned above, as there is specific allegation of rape/penetrative sexual assault against this petitioner, this Court is not inclined to grant privilege of bail to the petitioner, at present.

Accordingly, the prayer for bail of the petitioner is rejected herewith.

The learned Trial Court/Special Court is directed to proceed with the matter, by taking it on board, on day-to-day basis, so as trial may conclude within specified time as prescribed under Section 35(2) of the POCSO Act, 2012, failing which, the petitioner may renew his prayer of bail, if so advised.

The Superintendent of Police, Sheikhpura, is directed to produce the charge-sheeted witnesses, as and when directed by the learned Trial Court/Special Court, for expeditious disposal of trial, within specified time, as prescribed under the law, as mentioned above.

(Chandra Shekhar Jha, J)

R.S.Sen/-

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