

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13448 of 2022

Arising Out of PS. Case No.-74 Year-2021 Thana- MAHILA P.S. District- Madhubani

Sumit Kumar Son of Rajendra Yadav Resident of Village - Gobrahi, P.s.-
Jaynagar, Distt.- Madhubani.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rudal Prasad, Advocate.

For the Opposite Party/s : Mr. Uday Pratap Singh, APP.

For the Informant : Mr. Kripa Nand Jha, Advocate.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 07-07-2022 The present matter has been listed on priority basis on
the motion made by the learned counsel for the petitioner.

Learned counsel for the petitioner is permitted to
remove defect(s), as pointed out by the office, if any, within a
period of four weeks from today.

Heard Mr. Rudal Prasad, learned counsel for the
petitioner, Mr. Kripa Nand Jha, learned counsel for the
informant and learned Additional Public Prosecutor for the
State.

The application for grant of bail to the petitioner,



above named, who has been made accused and put behind the bar in connection with Mahila P. S. Case No. 74 of 2021 registered for the offences punishable under Sections 323, 341, 376, 511, 506 and 34 of the Indian Penal Code and Sections 8 and 10 of the Protection of Children from Sexual Offences Act.

As per the prosecution case, it is alleged that while the informant was sleeping with her mother in her house at about 09:00 P.M., the petitioner came there and by pressing her mouth taken away the victim forcibly by a motorcycle near Sinhiya bridge and tried to outrage her modesty.

Learned counsel appearing on behalf of the petitioner submitted that from the tenor of the F.I.R., it appears that the prosecution story is absurd for the simple reason that the informant, who was sleeping with her mother and if she was forcibly taken away to any other place, she would have certainly raised alarm but no such protest was made, which creates suspicion over the prosecution case. It is next submitted that the statement of the victim was recorded under Section 164 Cr.P.C. and she has exaggerated the prosecution story in as much as she has stated a different story that while she was going to attend the nature call, she was taken away by the petitioner. It is next submitted that the victim was also examined by the doctor and



he opined that “according to present physical and pathological examination no medical evidence of sexual assault was found at the time of examination”. It is next submitted that the petitioner is in custody since 17.11.2021 and moreover, after conclusion of the investigation, the charge-sheet has been submitted and he is ready to give undertaking that he will remain present on each and every day of the trial and will not indulge in tampering with the evidences and intimidating the witnesses.

On the other hand, learned counsel for the informant opposes the bail application and has categorically opined the age of the victim girl as 15-16 years, there is specific allegation against this petitioner that he has committed a wrong deed with her. It is also submitted that the petitioner is a habitual offender and earlier also such kind of case has been instituted against him. It is next submitted that the trial has been commenced and one witness has been examined.

Learned APP has also opposed the bail application.

Having considered the submissions made on behalf of the parties and taking into account the nature of allegation, apart from the period of custody and the undertaking given by the petitioner, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty



thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-VI -cum-Special Judge (POCSO) at Madhubani in connection with Mahila P. S. Case No. 74 of 2021, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.
- (v) The Court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancelling of bail bond of the petitioner. However, the acceptance of bail bonds



in terms of the above-mentioned order shall not
be delayed for purpose of or in the name of
verification.

(Harish Kumar, J)

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