

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14554 of 2022

Arising Out of PS. Case No.-24 Year-2021 Thana- MAHILA PS District- Katihar

MD. RAKIBUL HAQUE Son of Late Manjur Alam, Resident of Village -
Bari Gidhamari, P.S.- Barari (Semapur), Distt.- Katihar (Bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajit Kumar Singh, Advocate

For the Opposite Party/s : Mr. Akhileshwar Dayal, APP.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 12-08-2022 Let the defect, if any, be removed within two weeks
from today.

Heard learned counsel for the petitioner and learned
A.P.P. for the State through virtual mode.

The petitioner seeks regular bail in connection with
Mahila P.S. Case No. 24 of 2021 lodged under Sections 376,
504 and 506 of the Indian Penal Code and Section 4 of POCSO
Act.

The prosecution story is that the informant has alleged
that the petitioner was in sexual relation with her since last
about one year on the pretext that he will marry with her.
Allegation of abortion by providing medicine is also there. It
has been specifically mentioned that on the night of 29.08.2021
the petitioner and informant were continuing their physical
relation, in the meantime uncle of the informant seen the said

event, upon which the informant and their family were called and it was decided that marriage between both of them shall take place but subsequently the petitioner has refused to marry, in result the present F.I.R. has been lodged.

Learned counsel for the petitioner submits that the provision of POCSO not applicable in the present case, as the informant's age is 18 years as per the school certificate. He also submits that the said physical relation is not a rape because it was continued with consent as stated in F.I.R. as well as in statement under Section 164 of Cr.P.C.. Learned counsel for the petitioner further submits that petitioner is in custody since 19.01.2022, charge sheet has already been filed and he has no criminal antecedent.

Learned counsel for the informant opposes the prayer for bail and submits that petitioner has culprit of committing offence under Section 376 of I.P.C.. He has convinced the informant, who is minor and continued his physical relation with her on the wrong promise of marriage. Informant's counsel further submits that after completion of charge sheet, cognizance has been taken in this case on 22.03.2022 but due to non-appearance of other accused, charge could not be framed. Therefore, bail may not be granted to the petitioner.

Learned counsel for the State appeared and submits that it has come in the order sheet of the Special Court that the date of birth of the victim in the certificate is 20.12.2002, as such her age was more than 18 years on the date of alleged occurrence.

Upon going through the facts and circumstances of the case and the submissions made above, I am not inclined to grant bail to the petitioner at present. Accordingly, the bail petition of the petitioner is hereby rejected.

Petitioner may renew his prayer for bail after framing of charge and Trial Court shall release him on bail, putting conditions so that he shall support in the trial.

With this observation, the bail application is disposed of.

(Dr. Anshuman, J.)

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