

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25289 of 2022

Arising Out of PS. Case No.-468 Year-2021 Thana- NARPATGANJ District- Araria

SHAHABUDDIN @ SHABUDDIN Son of Jharku @ Hasimuddin Resident
of Village - Pathraha Ward No.14, P.s.- Ghurna (Narpatganj), Distt.- Araria.
... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Ziaul Quamar, Advocate
For the Opposite Party/s : Mr. Mithlesh Kumar Khare, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 08-08-2022 Heard learned counsel for the petitioner and learned
counsel for the State.

Let the defect(s), if any, as pointed out by the office
be removed within four weeks.

The petitioner is in judicial custody in connection
with Special (POCSO) Case No. 02/2022 arising out of
Narpatganj (Ghurna) P.S. Case No. 468 of 2021 for the offences
under Sections 376/34 of the Indian Penal Code.

The allegation in the FIR is of committing rape with
the informant's daughter. The informant locked the room and
called the villagers whereafter this petitioner was apprehended
and is in custody from the date of occurrence i.e. 06.11.2021 (as
stated in paragraph-15 of the bail application).

Learned counsel for the petitioner has attributed the
attention of this Court to the statement made by the victim girl



under Section 164 of the Cr.P.C. in which she has narrated that when she had gone out to attend the call of nature, as she suddenly saw this petitioner and considering him as a theft, she shouted whereafter the villagers caught him and locked him in the room and later was arrested. It has further been narrated by her in the said statement recorded that no wrong has been committed by the petitioner on her.

Taking into account the fact that the victim girl in course of her subsequent statement under Section 164 of the Cr.P.C. has not supported the allegation made by her mother in the FIR, the petitioner is in custody since 06.11.2021 and charge sheet stands submitted, this Court is inclined to grant him the privilege of bail.

Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of like amount each to the satisfaction of learned Special Judge, POCSO, Araria in connection with Special (POCSO) Case No. 02 of 2022 arising out of Narpatganj (Ghurna) P.S. Case No. 468 of 2021, subject to the following conditions.

(i) one of the bailor should be the family member of the petitioner, who shall provide official document to show his/her *bona fide*;



(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reasons will entail his cancellation of bail by the Trial Court itself;

(iii) he shall appear before the concerned police station every fortnight for next six months to mark his presence;

(iv) he shall in no way try to induce or promise or threat the witnesses or tamper with the evidence, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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