

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26561 of 2022

Arising Out of PS. Case No.-79 Year-2021 Thana- DHANKUND District- Banka

Md Gufran, Son of Md. Ajmat @ Md. Ajmat Ali, R/O- Village- Bishanpur
(Bishunpur), P.S.- Dhankund, District- Banka

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Brij Nandad Prasad, Advocate

For the Opposite Party/s : Mr. Abhay Kumar, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 29-08-2022 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Brij Nandan Prasad, learned counsel for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Dhankund P.S. Case No. 79 of 2021 registered for the offences punishable under Sections 366(A)/34, 376 of the Indian Penal Code and Section 4 of the POCSO Act.

The prosecution case is based on a written complaint alleging therein that on 04.07.2021, at about 5.00 AM, when the minor sister of the informant went to attend the nature call and when she did not return, the informant along with the family members went in search of his daughter, but could not find her



whereabouts.

Learned counsel appearing on behalf of the petitioner submits that the petitioner happens to be the brother-in-law of the victim and in fact the victim on her own sweet will accompanied the petitioner and it is not a case of kidnapping, rather it might be a case of elopement, which later on, due to the pressure made by the family members resulting into allegation of committing rape upon the victim. It is also submitted that the victim was recovered and her statement was recorded under Section 164 of the Cr.P.C., in which she categorically stated that she voluntarily accompanied with the petitioner. It is next submitted that the victim was medically examined and the Doctor has not found any sign of rape, inasmuch, as her age has been assessed to be 18 years. It is lastly submitted that this petitioner is in custody since 12.07.2021.

On the other hand learned APP for the State vehemently opposes the bail application and drawn the attention of this Court towards the impugned order, which would suggest that the victim in her statement recorded under Section 164 of the Cr.P.C. clearly stated that the petitioner had called her in the early morning and when she went there the petitioner took her to Bhagalpur where he kept the victim child in a lodge and



committed rape upon her. It is also submitted that the victim child is below 18 years of age and there is specific allegation that she was subjected to rape at the hands of the petitioner.

Having regard to the submissions made on behalf of the parties and considering the statement of the victim recorded under Section 164 of the Cr.PC. Wherein she has specifically alleged that she was subjected to rape at the hands of the petitioner, which is non-else, but brother-in-law (Bahnoi) of the victim child, this Court is not persuaded to enlarge the petitioner on bail, for the present.

Accordingly, the present application stands dismissed.

(Harish Kumar, J)

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