

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40158 of 2021

Arising Out of PS. Case No.-111 Year-2021 Thana- MADANPUR District- Aurangabad

Amit Kumar, S/o Arjun Kumar Yadav, R/o village - Ratanpura, P.S.-
Madanpur, District- Aurangabad.

... .. Petitioner

Versus

1. The State of Bihar
2. Kamdeo Rajak S/o Late Chhedi Rajak R/o village- Ratanpura, P.S.-
Madanpur, District- Aurangabad.

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Krishna Prasad Singh, Sr. Advocate Mr. Bhaskar Shankar, Advocate
For the Informant	:	Mr. Yugal Kishore, Advocate
For the State	:	Mr. Choubey Jawahar, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 23-03-2022 At the outset, let it be recorded that the informant has entered appearance in this case through Mr. Yugal Kishore, learned Advocate who is present in the Court.

Heard Mr. Krishna Prasad Singh, learned Senior counsel for the petitioner, Mr. Yugal Kishore, learned counsel for the informant and Mr. Choubey Jawahar, learned A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail in connection with Madanpur P.S. Case No. 111 of 2021 registered for the offences punishable under Section 376/511 of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences Act (in short the “POCSO Act”)



and Section 3(i)(r)(s) of SC/ST Act. He is in custody since 15.05.2021 having no criminal antecedent as stated in paragraph '3' of the application.

As per the prosecution story, when the informant was not present in his house during night hours on 15.05.2021 at about 1:00 A.M. the petitioner entered into the house of the informant and attempted to commit rape upon the grand-daughter of the informant who was sleeping in the house. It is alleged that on the protest made by the grand-daughter of the informant she was forcibly put down on the earth, was abused and torn the cloths of the grand-daughter of the informant. On the shouting the women members of the family awoke and on hulla raised by them the co-villagers assembled there and they confined the petitioner inside the house of the informant. The informant went to the police station on the next day at 11:30 A.M. and informed the alleged occurrence.

Learned Senior Counsel for the petitioner submits that the entire prosecution story is concocted and baseless. The alleged occurrence is said to have been taken place at 1:00 A.M. during night hours on 15.05.2021 but neither the informant nor any of the co-villagers informed the police station as regards the alleged occurrence for more than 10 hours. The informant goes



to the police station on 15.05.2021 at 11:30 A.M. and thereafter police has registered the F.I.R., visited the place of occurrence and said to have arrested the petitioner from the house of the informant, but even on this point there is no witness in the case diary.

Learned Senior Counsel further submits that as per allegations the petitioner had torn the cloth of the granddaughter of the informant but no torn cloth was made available to the Investigating Officer. The statement of the victim girl has not been recorded under Section 164 Cr.P.C. and the medical examination report of the victim girl shows that she was aged between 17 – 18 years.

It is further submitted that in any case the investigation against the petitioner is complete and at this stage his release is required to allow him to continue with his studies and in the mainstream of the society.

Learned counsel for the informant as well as learned A.P.P. for the State have opposed the prayer for bail of the petitioner. It is submitted that the victim girl has made statement before police under Section 161 Cr.P.C. in which she has supported the prosecution case of attempt to commit rape.

In course of argument, however, learned A.P.P. is



unable to point out from the case diary that immediate neighbour of the informant whose name has transpired in the case diary has been examined. Further, it is evident on perusal of the case diary that no torn cloth was made available to the I.O. and three witnesses whose statements have been recorded in the case diary are said to have reached the place of occurrence when the petitioner had already been confined inside the house by the co-villagers, but none of those co-villagers who had allegedly confined the petitioner inside the house of the informant have been examined.

Having regard to the submissions recorded hereinabove, in the nature of the materials placed before this Court showing that no information was given to the police as regards the occurrence either by the informant or the co-villager for more than 10 hours in now-a-days when everybody is connected with mobile and phone number of police station is very much available with the villagers, no torn cloth of the victim was made available to the I.O. and none of the co-villagers who had allegedly assembled on hearing the shouts and had allegedly confined the petitioner inside the house of the informant has been examined, the investigation being complete and at this stage the trial is not likely to be concluded, this Court



directs release of the petitioner above named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Special Judge, POCSO, Aurangabad in connection with Madanpur P.S. Case No. 111 of 2021, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that 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 cancellation 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.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

