

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40124 of 2021

Arising Out of PS. Case No.-3 Year-2021 Thana- THAKRAHA District- West Champaran

SHREE SAH, Son of Late Yadunandan Sah, Resident of Village-
Bhatahawa, P.S.- Thakraha, District- West Champaran, Bettiah.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr.Vikas Kumar, Advocate

For the Opposite Party : Mr.Kumar Veerendra Narayan, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 30-03-2022 Heard Mr. Vikas Kumar, learned counsel for the

petitioner and Mr. Kumar Veerendra Narayan, learned A.P.P.

for the State.

Petitioner, in the present case, is seeking regular
bail in connection with Thakraha P.S. Case No. 3 of 2021
registered for the offences punishable under Section 376 of
the Indian Penal Code and Section 4/8 of the Protection of
Children from Sexual Offences Act (in short the “POCSO
Act”). He is in custody since 17.01.2021 having no criminal
antecedent as stated in paragraph ‘3’ of the application.

The informant is the mother of the victim girl,
who has lodged the First Information Report on 16.01.2021
at 6:00 P.M. alleging therein that on 15.01.2021 at about



4:00 P.M. her neighbour Shree Shah (Petitioner) enticed away her daughter whose age is about 12 years saying that her mother is calling her to make fence. It is alleged that the petitioner took away her daughter on a bicycle towards Kanha Jubani Sareh and in the sugarcane field of one Shiv Jee Tiwary he committed rape with her daughter. It is alleged that on the date of lodging of the F.I.R., when the daughter of the informant realized little pain then on asking she told the entire story whereafter the informant came to the police station with her daughter and lodged the F.I.R.

Learned counsel for the petitioner submits that it is a case of false implication of the petitioner because of old enmity between the two families. The alleged occurrence is said to have taken place on 15.01.2021 at 4:00 P.M. alleging that the petitioner had taken away the daughter of the informant on a bicycle but none from the village has stated in course of investigation that the petitioner was seen taking away the victim girl on his bicycle. There is no witness at all on this point.

Learned counsel further submits that the place of occurrence, as stated by the informant, is the sugarcane



field which has been verified by the Investigating Officer in paragraph '9' of the case diary. The place of occurrence is full of sugarcane plants, some of which were cut down by the farmers, therefore if rape would be committed in the said sugarcane field some kind of injury on the body of the victim would be present, but in this case the medical examination report of the victim, which has been recorded in paragraph '55' of the case diary categorically says that no external or internal injury were found on the body of the victim and there was no sign of sexual assault.

Learned counsel further submits that in this case the independent witnesses have been examined by the I.O. in paragraph nos. 61, 62 and 63 of the case diary and they have stated in clear terms that it is a case of false implication of the petitioner. The petitioner is a person of good moral and he cannot commit such offence and further that both the families are residing nearby and have got an old enmity.

It is further submitted that petitioner has remained in custody for over one year, investigation against him is complete and his presence may be secured in course of trial.



Mr. Kumar Veerendra Narayan, Learned A.P.P. for the State has opposed the prayer for regular bail of the petitioner. It is submitted that the victim girl has supported the allegation against the petitioner in her statement recorded under Sections 161 and 164 Cr.P.C. As regards the medical examination report, learned A.P.P. admits that the medical examination report does not show any external or internal injury on the body of the victim and no sign of sexual assault has been found. As regards the statement of independent witnesses, learned A.P.P. has read out the statement made in paragraph '61' of one of the independent witnesses and submits that similar statements have been made by independent witnesses in paragraph nos. 62 and 63 also stating that it is a case of false implication of the petitioner because of old enmity.

Having regard to the submissions and the kind of materials showing that at the place of occurrence there were cut trees of sugarcane and allegation of rape at the said place is not supported by the medical report of the victim even as no sign of sexual assault and no sign of any injury has been found on her body, further that independent



witnesses have come out stating that it is a case of false implication and there is already a delay of more than 24 hours in lodging the F.I.R., 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 Additional District and Sessions Judge - 7th – cum – Special Judge, POCSO, West Champaran, Bettiah in connection with Thakraha P.S. Case No. 3 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.

And further condition that during pendency of trial the petitioner shall not either himself or through anybody else approach the victim girl or her family members and in



case it is found that he is indulged in threatening of any of the witnesses, it will be open for the informant to bring it to the notice of learned court below for an appropriate action.

(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'.

