

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42326 of 2021

Arising Out of PS. Case No.-97 Year-2019 Thana- MOKAMAH District- Patna

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Bittu Kumar, Son of Sri Madan Yadav @ Madan Prasad Yadav, Resident of
Village - Rehua, P.S.- Lakhisarai, District - Lakhisarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Amit Kumar Anand, Adv.

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

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 23-03-2022 Learned counsel for the petitioner undertakes to

remove all the defects as pointed out by office within two weeks

after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr.
Ashok Kumar Singh, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in
connection with Special (POCSO) Case No.56 of 2021, arising
out of Mokama P.S. Case No.97 of 2019, registered for the
offences punishable under Sections 363, 366(A)/34 of the Indian
Penal Code and later on Section 376(D &A) of the Indian Penal
Code and Section 4 of the POCSO Act was also added. He is in
custody since 26.03.2021. The petitioner has got one criminal
antecedent as stated in paragraph '3', however, in the said case
the petitioner has been granted anticipatory bail by this Hon'ble



Court.

Learned counsel for the petitioner submits that the mother of the victim girl lodged the FIR on 13.05.2019 with regard to the missing of her daughter since 06.05.2019. She made specific allegation against one of the relatives of her neighbour and alleged that the accused persons namely Rinku Devi, Puja Devi, Kiro Rai, Nandan Kumar and Raju Kumar are behind the kidnapping of her minor daughter with an intention to marry her. She alleged that the co-acused Rinku Devi was pressurizing the informant to marry her daughter with one of her relatives.

Learned counsel submits that after about a month i.e. on 10.06.2019 the statement of the victim girl has been recorded in which she has claimed that she was taken to Barh by this petitioner who happened to be the brother of her friend Komal. She alleged that the petitioner had taken her to Bhagalpur where they called the co-accused Raju and they left her with the said co-accused Raju who took her in a room. The allegation of sexual assault and rape has been specifically made only against the co-accused Raju. The victim girl claimed in her statement that the mother of Raju brought her to Barh where she was left with one Sita Devi.



Learned counsel submits that in the case diary it has come that the victim girl was found near Barh railway station on 07.06.2019. Police has not recorded her statement immediately after finding her and only after three days her statement was recorded in which the only allegation against this petitioner is that he had taken her to the place where she was left with co-accused Raju.

Learned counsel submits that this is an entirely concocted story and the petitioner has been falsely implicated in this case even though there was no iota of doubt raised by the informant against the petitioner in the FIR.

Learned APP for the State is present and has opposed the prayer for regular bail of the petitioner, but considering the peculiar nature of the allegations, huge delay of about a week in lodging of the FIR by mother of the victim and her knowledge with regard to the name of the accused persons who had allegedly taken away the victim girl but then the petitioner is not being named in the FIR and even in the statement under Section 164 Cr.P.C. there is no specific allegation against the petitioner of indulging in any indecent act or causing sexual assault on the victim girl, further considering that the petitioner has remained in custody for over one year and investigation against him is



complete, this Court directs that the petitioner above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned 6th Additional Sessions Judge-cum-Special Judge (POCSO Act), Patna in connection with Special (POCSO) Case No.56 of 2021 arising out of Mokama P.S. Case No.97 of 2019, 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)

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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'.

