

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50283 of 2021

Arising Out of PS. Case No.-276 Year-2019 Thana- TRIVENIGANJ District- Supaul

PINTU KUMAR Son of Shree Suresh Das Resident of Village - Ward no.5,
Latouna Uttar, P.S.- Triveniganj, Distt.- Supaul.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. S.D. Sanjay, Senior Advocate Mr. Mohit Agarwal, Advocate
For the Opposite Party/s	:	Mr. Uma Shankar Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 17-05-2022 Heard Mr. S.D. Sanjay, learned Senior counsel for
the petitioner and Mr. Uma Shankar Prasad Singh, learned APP
for the State.

Let the defect(s), if any, be removed within four
weeks.

In this case, case diary, criminal antecedent report of
the petitioner and the status report with regard to the stage of the
trial was called for which has now been received and perused by
the learned APP for the State.

The case has been instituted in which the petitioner is
in judicial custody since 27.09.2019 in connection with POCSO
Case No. 51 of 2019 arising out of Triveniganj P.S. Case No.
276 of 2019 instituted on 25.09.2019 under Sections 341, 323,



376(D) of the Indian Penal Code and Section 6 of the POCSO Act.

As per the FIR, when the informant came out from her toilet, she was forcefully taken away by amongst other the petitioner herein and it is alleged that gang rape was committed. She was further threatened that in case that she makes any complaint about the occurrence not only there will be repetition of rape, her father will be killed.

Learned Senior counsel for the petitioner submits that although there is allegation of gang rape, the victim girl was immediately examined in the morning of 25th of September, 2019 and the Medical Board that was constituted did not find any sign of rape and the all the members of the Board unanimously concluded that her age is 18 to 20 years. He further submits that one of the accused person, namely, Vijay Marandi has since solemnized marriage with the victim girl.

In the case diary, it has come that the victim girl was again examined by another Medical Board at Civil Surgeon office in which the age was held to be about 17 to 19 years. The Medical Board opined that there was no sign of rape and/or injury on the body part of the victim girl.

Learned Senior counsel for the petitioner further



submits that he is in jail immediately thereafter i.e. from 27.09.2020, has no criminal antecedent and as such he deserve bail.

Learned APP for the State submits that the accusation in the FIR is heinous and as such, the petitioner herein as also the other co-accused persons do not deserve bail. However, having perused the case diary, he concurs that the Medical Board did not find any sign of rape and the age of the victim girl has also been established as 17 to 19 years.

The status report was called for from the learned Court below and the same has been received. Although, the summons were issued in the matter and the learned Special Public Prosecutor has seen the order dated 15.11.2021 for producing the prosecution witnesses, till date no witness has been produced.

Taking into account the fact that charge-sheet stands submitted in the matter and there is no question of tampering with the evidence, the petitioner is in jail since 27.09.2019 and has no criminal antecedent as also the fact that he is a young boy and has a chance to reform himself, this Court is inclined to grant him the privilege of bail with certain conditions.

Let the petitioner be released on bail on furnishing



bail bond of Rs. 20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of Additional District and Sessions Judge -VI-cum-Special Judge, POCSO, Supaul in connection with POCSO Case No. 51 of 2019 arising out of Triveniganj P.S. Case NO. 276 of 2019, 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 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;

(iv) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

Nothing observed in this bail application shall be taken up for consideration in the Trial which shall be decided on



its own merit.

The bail application is allowed with the aforesaid observations.

(Rajiv Roy, J)

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