

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52754 of 2021

Arising Out of PS. Case No.-25 Year-2021 Thana- MAHILA PS District- Aurangabad

=====

FARID KHAN Son of Manzurul Haque Khan Resident of Village Bantara,
Police Station - Deokund, District - Aurangabad (Bihar).

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. Marigank Mauli, Sr. Advocate.
		Mr. Ranjay Kumar Singh, Advocate.
For the Opposite Party/s	:	Mr. Anita Kumari Singh

=====

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 24-08-2022 Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Marigank Mauli, learned senior counsel for the petitioner as well as learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Mahila P. S. Case No. 25 of 2021 registered for the offences punishable under Sections 376(AB) and 506 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act.

The case of the prosecution is that the petitioner, who happens to be maternal uncle of the victim used to commit rape upon her for last few months and due to threat given to the victim, she did not disclose the fact of continuous rape



committed upon her.

Learned senior counsel appearing on behalf of the petitioner submitted that the petitioner is an old man aged about 67 years and the informant of this case is non-else but the sister of the petitioner and only on account of her dispute with regard to the *dokhtari* share on the part of the informant, who is demanding a share of eight *Kattha* land, which was not accepted by the petitioner, resulting into the institution of the present case. It is further submitted that the falsity of the case is also evident from the fact that the father and the brother of the victim have not come forward to support the prosecution case and in fact, the victim has been used as a tool to pressurise the petitioner in order to get her share. Learned senior counsel next submits that the victim is aged about 19 years and she is a major girl and the factum of commission of rape has also not been supported by any medical evidence in as much as no sign of sexual assault has been found over the body of the victim. It is last submitted that this petitioner is in custody since 23.07.2021 and moreover, the charge sheet witnesses have already been examined.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that the



petitioner, who happens to be maternal uncle taking advantage of absence of her parents allegedly found to have committed aggravated penetrative sexual assault on a minor, which demonstrate his mental condition; it was the duty of the petitioner to protect the victim, when she was alone rather exploiting her. It is also submitted that it is a case where trust has been betrayed and social values are impaired.

Having considered the submissions made on behalf of the parties and taking into account the fact that all the charge sheet witnesses have been examined and moreover, the victim has categorically stated in her statement recorded under section 164 Cr.P.C. that she was subjected to rape at the hands of the petitioner on various times and at different places, this court is not persuaded to enlarge the petitioner on bail for present.

Accordingly, the present application stands dismissed.

It is expected that the learned trial court will take all necessary measures to conclude the trial as early as possible preferably within the period of three months.

(Harish Kumar, J)

shakir/-

U		T	
---	--	---	--

