

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57616 of 2021

Arising Out of PS. Case No.-8 Year-2021 Thana- MAHILA PS District- Gaya

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Sujit Ray @ Natwar Lal @ Sujit Raj @ Sujeet Raj S/O Ramashish Ram @
Ramashish R/O Village Barhi Bigha, P.S. Chakand, Gaya, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Surendra Kumar Singh, Advocate

For the Opposite Party/s : Mr.Ganesh Prasad Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

6 20-07-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with POCSO Case No. 46 of 2021, arising out of Mahila Case No. 8 of 2021, registered for the alleged offences under Sections 376, 376(AB)/34 of the Indian Penal Code and Section 6/17 of the POCSO Act.

Prosecution case is that the petitioner raped 6 year old daughter of the informant.

The learned counsel for the petitioner submits that the the petitioner is innocent and has been falsely implicated in this



case. For an occurrence of 01.03.2021, the FIR has been registered on 03.03.2021, which shows deliberation on part of the informant. The allegation about past conduct of the petitioner is not supported by any other documentary evidence. There is no complaint to this effect by the informant or any other person. The report of the incident in most casual manner by the informant also suggests something is not right about the case of the informant. The medical report falsifies the claim of rape as no injuries have been found on the person of the victim girl and the conclusion of the doctor is that there is no sign and symptom of present or past sexual intercourse. No injury has been found on the body or private part of the victim girl and this medical examination was conducted on 03.03.2021. It also does not apply to senses that the victim of such tender age as has no difficulty in walking or attending her normal routine, if she was subjected to sexual assault of such magnitude. The informant wants mother of the petitioner to be removed from the work of *Aanganwari Sewika*. The probability of false implication of the petitioner cannot be ruled out in the aforesaid circumstances. The petitioner is in custody since 03.03.2021.

Learned APP opposes the prayer for bail submitting that the victim girl has supported the prosecution case and has



recorded her statement in detail under Section 164 Cr.P.C. before the learned Magistrate.

Perused the record.

Having regard to the submissions made hereinabove and considering the fact that though there is specific allegation of rape against the petitioner, but the same is not supported by the medical examination of the victim girl and the medical report further shows no sign and symptoms of present or past sexual intercourse has been found and no injury has been found on the body or private part of the victim girl and this examination was conducted just two days after the occurrence and the victim girl is stated to be only seven years old, as such probability of false implication is very strong and hence, let the petitioner above named is directed to 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 learned Additional District Judge VI-cum-Special Court, POCSO, Gaya in connection with POCSO Special Case No. 46 of 2021 arising out of Mahila P.S. Case No. 08 of 2021, subject to the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.



(ii) The petitioner will remain present on each and every date fixed by the court below.

(iii) Petitioner will not try to tamper with the evidence or will not try to influence the victim or any of the witnesses otherwise prosecution is at liberty to move for cancellation of bail bond.

(iv) In case of absence for three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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