

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54139 of 2021

Arising Out of PS. Case No.-70 Year-2021 Thana- HARLAKHI District- Madhubani

SARFROJ ANSARI Son of Shafik Ansari Resident of Village- Kasera, P.S.-
Harlakhi, District-Madhubani.

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Gagan Deo Yadav, Advocate with
	:	Mr. Ravi Prakash, Advocate.
For the Opposite Party/s	:	Mr. Md. Nazir Ansari, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 25-08-2022 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. Gagan Deo Yadav, learned 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 Harlakhi P. S. Case No. 70 of 2021 registered for the offences punishable under Sections 376, 511, 34 of the Indian Penal Code and Section 4/6 of the Protection of Children from Sexual Offences Act and Section 66 Information Technology Act.

As per the prosecution case, it is alleged that on



12.03.2021, while the informant and her *Nanad* were going to a field for cutting grass, in the meantime, four persons surrounded her *Nanad* and started misbehaving with her. It is also alleged that all of them tried to commit rape upon her, when the victim started crying, in the meantime, having heard the sound, the informant and other villagers reached there and on noticing them the accused persons tried to flee away, however, co-accused Afroj Ansari was caught by the villagers and he disclosed the name of other three accused persons including the petitioner.

Learned counsel appearing on behalf of the petitioner submitted that the name of the petitioner has been disclosed by co-accused Afroj Ansari, who was caught by the informant and villagers and moreover, the petitioner has not been identified by the victim nor he has been put on Test Identification Parade. It is next submitted that the statement of the victim was recorded under Section 164 of the Cr.P.C. where, she has not disclosed the name of any of the persons. She has only alleged that the four persons tried to outrage her modesty and also made video of the incidence. It is also submitted that the petitioner having fair antecedent and is in custody since 13.03.2021 and there is no allegation that the petitioner is



involved in tampering of the evidences or threatening the witnesses. It is last submitted that the victim was also medically examined and no evidence of sexual assault has been found over the body of the victim.

On the other hand, learned APP for the State opposes the bail application and submits that there is specific allegation that the petitioner and others tried to commit rape upon the victim girl, who is aged about only 10 years.

Having considered the submissions made on behalf of the parties and taking into account, the statement of the victim recorded under Section 164 Cr.P.C. and also the fact that the petitioner was neither identified by the victim nor by the informant and moreover, the petitioner having fair antecedent, is in custody since 13.03.2021, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-VII-cum-Special Judge POCSO Act, Madhubani in connection with Harlakhi P. S. Case No. 70 of 2021, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the



trial.

- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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