

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55406 of 2021

Arising Out of PS. Case No.-115 Year-2021 Thana- LAURIA District- West Champaran

Munna Miyan @ Md. Shami S/O Sarfuddin Miyan @ Bismillah Miyan
Resident Of Village- Phulwariya, P.S.- Sugauli, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Advocate.

For the Opposite Party/s : Mr. Abhay Kumar Roy, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

3 11-05-2022

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 learned counsel for the petitioner, learned counsel for the informant and learned Additional Public Prosecutor for the State.

The application for grant of regular bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Lauriya P. S. Case No. 115 of 2021 registered for the offences punishable under Sections 341, 342, 323, 363, 366(A), 354(B) read with 34 of the Indian Penal Code, Section 8 of the Protection of Children from Sexual Offences (POCSO) Act and Section 3(1)(r)(s)(w) and 3, 2 (V-a),



Scheduled Caste and Scheduled Tribe (Prevention of Atrocities)
Act.

Learned counsel appearing on behalf of the petitioner submits that the alleged occurrence has taken place on 08.05.2021, however, this F.I.R. has been instituted after eleven days on 19.05.2021. It is further submitted that during the course of investigation, it has come that the victim had love affair with this petitioner and she voluntarily left her house along with the petitioner but when she was recovered and on being pressurised by her parents, she has given the statement that she was subjected to sexual assault by this petitioner. It is also submitted that the victim was medically examined during the course of investigation but the doctor did not find any recent sign of sexual assault on the person of the victim. It is lastly submitted that even the independent witnesses whose statement has been recorded in paragraph nos. 123, 124 and 125 have not completely supported the prosecution case.

On the other hand, learned counsel for the informant vehemently opposes the bail application and submits that as per the educational certificate and Aadhar Card the date of birth of the victim has been recorded as 04.06.2007 and on the alleged date of occurrence she was only 14 years. Further



she was also examined by duly constituted Medical Board where her age has been assessed in between 15 to 16 years and her statement has also been recorded wherein she has categorically stated that this petitioner has forcefully taken away to Bettiah and also kept in his house and ravished her during the period of captivity. It is next submitted that the other witnesses have also supported the prosecution case and so far the independent witnesses are concerned they have also supported the fact that this petitioner has taken away the victim for the purposes of marriage. Learned counsel for the informant next submitted that so far delay in lodging of the F.I.R. is concerned, it is quite usual that as the parents of the victim was residing at New Delhi and when they came to the village, thereafter, this F.I.R. has been instituted.

Further, learned APP for the State also opposes the bail application of this petitioner and submits that the victim in her statement recorded by the Police as well as the statement recorded under Section 161 Cr.P.C. have categorically submitted that this petitioner was forcefully taken away and ravished her.

Having heard the submissions made on behalf of the parties and taking into consideration the nature of the accusation as well as the statement of the victim, who is aged



about 14 to 15 years this Court is not inclined to grant privilege of bail to the petitioner for present. Accordingly, this application for bail stands rejected.

(Harish Kumar, J)

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