

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56166 of 2021

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

Afroj Ansari, Son of Ehsanulhak @ Ansarul Ansari, Resident of Village-
Kasera, P.S.- Harlaki, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gagandeo Yadav, Advocate

Mr. Ravi Prakash, Advocate

For the Opposite Party/s : Mr. Satyendra Narayan Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 13-09-2022 Learned counsel for the petitioner is permitted to
remove the defect(s), as pointed out by the office, within a
period of four weeks from today.

Heard Mr. Gagan Deo Yadav, learned counsel
appearing on behalf of the petitioner and Mr. Satyendra Narayan
Singh learned APP for the State.

The petitioner seeks regular bail, who is in custody 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, Sections 4/6 of the Protection of Children
from Sexual Offences Act and Section 66 of Information
Technology Act.

As per prosecution case, it is alleged that on



12.03.2021, at about 4.00 PM, while the informant alongwith her sister- in- law were going in field for cutting grass, in the meantime, four persons, including the petitioner, surrounded her sister-in-law and started misbehaving and also untied her garments. It is also alleged that all of them tried to commit rape upon her. On hulla, the villagers came there and this petitioner was apprehended at the spot, however, other succeeded in fleeing away.

Learned counsel for the petitioner submits that from the allegation made in the F.I.R. admittedly, it is alleged that all the four accused persons have misbehaved with the victim and tried to commit rape upon her. However, there is no specific allegation against anyone as to what role they have acted. He next submits that the statement of the victim was recorded under Section 164 of the Cr.P.C. wherein she has categorically stated that all the persons misbehaved and acted improperly with her and tried to commit wrongful act with her, but denied any allegation of untying of any cloth and rape etc. He next submits that though after investigation, charge sheet has been submitted under Sections 342, 354(B), 376(AB), 509 of the Indian Penal Code, Sections 4/6/10/16 of the POCSO Act and Sections 67/67(A)/67(B) of Information and Technology Act, but even as



per the allegation, no offence is made out under Section 376 (AB) of the Indian Penal Code. He next submits that the petitioner, having fair antecedent, is in custody since 13.03.2021 and he is ready to give undertaking that he will remain present on each and every date of the trial. It is also submitted that one of the co-accused, namely, Sarfroj Ansari has been granted bail by this Court in Cr. Misc. No. 54139 of 2021 vide order dated 25.08.2022.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that all the co-accused persons, including the petitioner, have tried to commit rape upon the victim and in support of his submission, he has also drawn the attention of this Court towards the materials available on record in the case diary.

Having regard to the submissions made on behalf of the parties and considering the statement of the victim recorded under Section 164 of the Cr.P.C. coupled with the period of incarceration and fair antecedent of the petitioner, let the petitioner, named above, 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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