

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.58231 of 2021**

Arising Out of PS. Case No.-16 Year-2021 Thana- MAHILA PS District- Darbhanga

Shivjee Das, Son of Sri Surendar Das, Resident of Village- Jogiyara, P.S.-  
Jalley, Dist.- Darbhanga

... .. Petitioner/s

Versus

1. The State of Bihar  
2. Ram Rati Devi, W/o Tappu Das, Resident of Village- Jogiyara, P.S.- Jalley,  
Dist.- Darbhanga

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Kumar Rajeev, Advocate  
For the Opposite Party/s : Mr. Atul Chandra, APP

**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**  
**ORAL ORDER**

3      27-09-2022              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. Kumar Rajeev, learned counsel for the  
petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in  
connection with Mahila P.S. Case No. 16 of 2021 registered for  
the offences punishable under Section 376 of the Indian Penal  
Code and Sections 4/6 of the Protection of Children from Sexual  
Offences Act.

The prosecution case is based on a written report  
alleging therein that while the daughter of the informant was  
returning to her house, in the meantime, the petitioner forcibly



caught her and put her down and tried to commit rape upon her. However, on her cry, the neighbour came and caught the accused-petitioner. It is further alleged that the petitioner by alluring her that as they are in the same caste, he will marry with her and again on the pretext of marriage he sexually exploited the victim. Later on, when the victim became pregnant, the petitioner refused to marry with her.

Learned counsel appearing on behalf of the petitioner submits that from the F.I.R., it would be evident that there was a consensual relationship, as from the tenor of the F.I.R. it is clear that the occurrence took place more than seven months before the institution of the F.I.R., however, at no point of time any complain or information was given to any one. It is further submitted that in fact the victim is a major girl and there was a consensual relation, however, the same could not be resulted into solemnization of marriage, thereupon this F.I.R. has been instituted only in order to pressurize the petitioner and his family members to get marry with the victim. He next submits that even as per the Adhar Card, issued in favour of the victim, she appears to be a major girl and moreover the accusation is subject to final adjudication in trial. He lastly submits that the petitioner, having fair antecedent, is in custody since 12.02.2021



and the trial is in progress.

On the other hand, learned counsel for the State vehemently opposes the bail application and submits that from the impugned order, it appears that the victim has supported the prosecution case in her statement recorded under Sections 161 and 164 of the Cr.P.C. and the Medical Officer has also assessed her age in between 17 to 18 years.

Regard being had to the submissions made on behalf of the parties and considering the delay in lodging the F.I.R. and the nature of allegation, which is subject matter of trial and moreover the petitioner, having fair antecedent, is in custody since 12.02.2021, 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 Special Judge, (POCSO Act), Darbhanga in connection with Mahila P.S. Case No. 16 of 2021, subject to the condition that one of the bailors will be the close relatives 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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