

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58874 of 2021

Arising Out of PS. Case No.-324 Year-2020 Thana- MUFFASIL District- West Champaran

Sheikh Iftekhar Ahmad @ Iftekhar Ahmad, S/O Sheikh Maksud R/O
Village- Bhawanipur, Ward No. 6, P.O. Bhawanipur Bazar, P.S. - Nakardehi,
District - East Champaran.

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bimlesh Kumar Pandey

For the Opposite Party/s : Mr. Navin Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 09-05-2022 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner seeks bail in a case registered for the
offences punishable under Sections 366A, 406/ 34 of the Indian
Penal Code and Section 8 of the POCSO Act.

The learned counsel for the petitioner submits that the
petitioner is in custody since 02.06.2020, he is a person with
clean antecedent and charge-sheet has been submitted in this
case.

The learned counsel for the petitioner further submits
that the informant alleges that the petitioner was working as an
Imam in a Mosque where his daughter and children of the
village were studying. He further alleges that the petitioner



kidnapped his daughter with a purpose to marry as the informant was informed by the children that the petitioner and the victim on a motorcycle were going towards Nanosati Road.

It is next alleged that in the kidnapping, the other accused persons were also involved and when the informant went to the house of the accused persons, he was abused and assaulted and also came to know that accused persons had misappropriated Rs.70,000/- from the Mosque.

The learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. The girl has come back and her statement was recorded by the police under Section 161 of the Cr.P.C. wherein her age was disclosed as 16 years and the victim stated before the police that she was in love with this petitioner and she on her own volition had accompanied the petitioner for marrying him, but now she is not ready to marry the petitioner and wants to go with her parents.

The learned counsel further submits that thereafter the statement of the victim was also recorded under Section 164 of the Cr.P.C. wherein she disclosed her age as 14 years and stated that she was taken by the petitioner to Motihari where he did not keep her at his house and established relationship with consent. Further that now, she does not want to marry the petitioner as he



has three children and she wants to go back with the parents.

The learned counsel submits that the police after investigation submitted charge-sheet under Sections 366A, 406, 34 of the I.P.C. besides Section 8 of the POCSO Act. It is thus submitted that charge-sheet was not submitted under Section 376 of the I.P.C. as no evidence during the course of investigation came to even remotely connect the petitioner with the offence of rape. It is further submitted that the charge-sheet apart from the Sections of I.P.C. also came to be instituted under Section 8 of the POCSO Act where the punishment ranges from 3 to 5 years and the petitioner has remained in custody for nearly more than two years. It is further submitted that in the nature of allegation and the contradictory statement of the victim before the police and her statement recorded under Section 164 of the Cr.P.C. coupled with the fact that the statement of the mother of the victim was also recorded under Section 164 of the Cr.P.C. wherein also she has not disclosed anything that could even remotely connect the petitioner with the offence of rape.

Learned A.P.P. opposes the bail application, but is not able to meet the submission of the learned counsel for the petitioner that there is a contradiction in the statement of the



victim recorded by the police and in her statement under Section 164 of the Cr.P.C. and that the mother of the victim has also not stated anything which could even attract Section 376 of the I.P.C. and the punishment under Section 8 of the POCSO Act ranges from 3 to 5 years.

Considering the fact that the petitioner is in custody, he is a person with clean antecedent, charge-sheet has been submitted in this case and taking into consideration the submission made by the learned counsel for the petitioner, the petitioner, above-named, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with Bettiah (Muffasil) P. S. Case No.324 of 2020.

The application stands allowed.

(Satyavrat Verma, J)

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