

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64855 of 2021

Arising Out of PS. Case No.-59 Year-2020 Thana- MAHILA P.S. District- Nalanda

Kalendra Paswan, Son of Ravindra Paswan, Resident of Madhara, P.S.-
Noorsarai, District- Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pramod Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Ashok Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 30-08-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Mahila P.S. Case No. 59 of 2020 (POCSO Case No. 44 of 2020) registered for the alleged offences under Sections 376, 504 and 506/34 of the Indian Penal Code and Section 4/6 of the POCSO Act.

As per the prosecution case, while the minor informant was sleeping in the *Aangan*, the petitioner entered into her house and threatening her with gun committed rape with her.



The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The victim/informant has given three versions of the occurrence. In her statement recorded under Section 161 Cr.P.C., she has not stated that she was threatened with gun and she further stated about the petitioner gagging her mouth and committing rape. Thereafter, in her statement recorded under Section 164 Cr.P.C., she has changed the date of occurrence to 25.05.2020, whereas it has been mentioned as 26.05.2020. In the FIR she further stated that the petitioner tied her hand and legs and also gagged her with a *Gamchhi* while committing rape. Learned counsel further submits that medical report does not show any evidence of recent sexual intercourse. The petitioner is in custody since 30.07.2021 and charge-sheet has been submitted.

Learned APP opposes the prayer for bail submitting that victim girl has supported the prosecution case all along even in her statement recorded under Section 164 Cr.P.C. she has named the petitioner who committed rape with her.

Having regard to the facts and circumstances and submission made on behalf of the parties and considering the nature of allegation against the petitioner which is quite serious



and grave and the same allegation has been reiterated by the victim in her statement under Section 164 Cr.P.C. and notwithstanding the confusion over date of occurrence and minor contradiction, I do not think it is a fit case for grant of bail. Hence, the prayer for bail is rejected.

However, the trial court is directed to expedite the trial and conclude the same at the earliest and preferably within a year.

(Arun Kumar Jha, J)

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