

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65344 of 2021

Arising Out of PS. Case No.-147 Year-2021 Thana- AKBARPUR District- Nawada

Md. Sarfaraz @ Sarf Raj Son Of Md. Allauddin @ Alahudin Resident Of
Village - Muslim Tola Akbarpur, P.S.- Akbarpur, District - Nawada

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Mishra

For the Opposite Party/s : Mr. Ramchandra Singh

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 31-03-2022 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 376, 420, 34 of the Indian Penal Code and Sections 3, 4 and 8 of the POCSO Act.

The learned counsel for the petitioner submits that the petitioner is in custody since 08.03.2021, 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 on 01.01.2021, his daughter aged about 18 years was alone at home when the petitioner came and raped upon her. When the informant and his wife came back home, the victim disclosed the occurrence on which a Panchayati was held and the family of the petitioner was ready to marry the petitioner with the victim, but on 03.03.2021, the family members of the petitioner



refused to marry the petitioner with the victim.

The learned counsel for the petitioner submits that though the case was instituted under the POCSO Act, but after investigation, the charge-sheet also came to be submitted under the POCSO Act, but the learned Court below took cognizance only under the I.P.C. after going through the investigation threadbare.

The learned counsel further submits that date of occurrence is 01.01.2021 and the F.I.R. was instituted on 03.03.2021. Hence, there is delay of nearly two months in instituting the F.I.R. The learned counsel further submits that it absolutely does not stand to reason that if what has been alleged in the F.I.R. is true that the victim was raped by this petitioner and where was the question of holding a Panchayati. Further, it does not stand to reason that the informant was ready to get her daughter married with a man, who had committed such heinous offence.

The learned counsel submits that the informant devised a way of getting the petitioner implicated in a false case, so that he could be pressurized for getting married to his daughter. The learned counsel thus submits that a doubt is created in the nature of allegation alleged in the F.I.R.

Learned A.P.P. opposes the bail application.

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 there was a delay in instituting the F.I.R. and taking into



consideration the submissions 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. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with Akbarpur P. S. Case No.147 of 2021, subject to condition that one of the bailors shall be the father of the petitioner namely, Md. Allauddin @ Alahudin. Further, if the learned Court below comes to a conclusion that after getting bail, the petitioner is trying to delay the framing of charge or further proceedings, the learned Court below by a reasoned order will be at liberty to cancel his bail bonds.

The application stands allowed.

(Satyavrat Verma, J)

vikash/-

U		T	
---	--	---	--

