

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66082 of 2021**

Arising Out of PS. Case No.-259 Year-2021 Thana- KUDHNI District- Muzaffarpur

MD. SADDAM S/o- Md. Aalam Resident of Village - Bashant, Kharauna
(Khalilpur), P.S. - Kurhani, Dist. - Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Jyoti Shankar, Advocate
For the Opposite Party/s : Mr.Madhuri Lata, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER**

3 05-09-2022 Heard learned counsel for the petitioner and learned
APP for the State through virtual court proceeding.

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 Kurhani (Turki O.P.) P.S. Case No. 259 of 2021 registered for the alleged offences under Sections 341, 323, 406, 420, 376, 511, 312 and 34 of the Indian Penal Code and Section 4 of the POCSO Act.

As per prosecution case, the petitioner established physical relationship with the informant after giving inducement of marriage. In July 2020, the informant became pregnant and the petitioner got her pregnancy aborted and refused to marry



her. When the mother of the informant put up a proposal for marriage, they demanded a motorcycle and Rs. 1,00,000/- in dowry and even after receiving Rs. 51,000/-, the petitioner refused to marry with the informant. When the case was reported to the police, the petitioner gave his consent to marry the informant and put his signature on a settlement paper but even after the stipulated period, he did not marry the informant and she filed the present case.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The petitioner never established any physical relationship with the informant and during investigation, the informant refused to undergo any medical check up. The informant stated her age to be 21 years while recording the statement under Section 164 Cr.P.C. and for this reasons, there is no application of provisions of POCSO Act in this case. Moreover, even if her statement under Section 164 Cr.P.C. is believed, the physical relationship was first time established in summer 2018 and the informant was more than 17 years at that time and her case was not cover under POCSO Act as amended. Even the allegation of abortion was not proved as the nursing home from where the abortion has been stated to be done has denied the contention by



the informant and gave a certificate that she was not treated there. Charge sheet has been submitted and there is no chance of tampering with the evidence. The petitioner is in custody since 28.06.2021.

Learned APP for the State opposes the prayer for bail of the petitioner submitting that the petitioner established sexual relationship with the informant giving her allurement of marriage and she has stated this fact even in the statement recorded under Section 164 of Cr.P.C. Learned APP further concedes that the informant refused to undergo medical test and filed this case when the petitioner refused to marry her.

Having regard to facts and circumstances and submission made on behalf of the parties and considering the fact that the informant moved against the petitioner when he refused to marry her and further considering her refusal to undergo any medical test and also considering her age during relevant time when a girl develops sufficient maturity and voluntarily entering into physical relationship and also considering the submission of charge sheet along with his period of custody, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the



satisfaction of learned Additional Sessions Judge cum-Special Judge POCSO Act, Muzaffarpur in connection with Kurhani (Turki O.P.) P.S. Case No. 259 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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