

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66879 of 2021

Arising Out of PS. Case No.-115 Year-2021 Thana- KORHA District- Katihar

Mithilesh Kumar @ Kanhaiya, Son of Suresh Sah, Resident of village -
Bishahariya, P.S.- Korha, District - Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajendra Prasad Sah, Advocate
For the Opposite Party/s : Mr.Ram Bilash Roy Raman, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

6 18-10-2022 Today, a supplementary affidavit has been filed on
behalf of the petitioner in the Court, which is taken on record.

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.

In the present case, the petitioner seeks bail in
connection with Korha P.S. Case No. 115 of 2021, registered
for the alleged offences under Sections 363, 366 A of the Indian
Penal Code, but the charge sheet has been submitted under
Sections 363, 366A, 376/34 of the Indian Penal Code and
Section 4 of POCSO Act.

As per the prosecution case, the informant is the
mother of a minor girl and she has alleged that the petitioner and



other co-accused persons enticed away her minor daughter.

The learned counsel for the petitioner submits that it is a case of false implication. For an occurrence dated 01.03.2021, the FIR has been registered on 08.03.2021 and there is no explanation for the delay. The statement of the victim girl was recorded but she did not state that she was kidnapped by this petitioner rather she named two co-accused persons who kidnapped her. The learned counsel further submits that the petitioner has been made accused in order to pressurize him and to extort money from him. The learned counsel further submits that there is violation of Section 35 of the POCSO Act as it mandates that evidence of the child shall be recorded within a period of thirty days of the Special Court taking cognizance, but the victim has been examined after a delay of over seven months and the trial has not been concluded within one year from the date of taking cognizance. The learned counsel further submits that the petitioner is in custody since 19.04.2021.

Learned APP opposes the prayer for bail submitting that the victim girl in her statement recorded under Section 164 Cr.P.C. has specifically named the petitioner who committed rape with her. Her age was assessed to be 15 years by the learned Judicial Magistrate, though it has been stated to be 17-



18 years on the basis of X-ray examination. The witnesses have also supported the prosecution case.

Perused the records.

Having regard to the specific nature of allegation against the petitioner, which has been supported by the witnesses during investigation and the victim in her statement under Section 164 Cr.P.C., I am not inclined to enlarge the petitioner on bail at this stage.

Accordingly, his prayer for bail is rejected.

However, learned trial court is directed to expedite the trial and conclude the same within three months.

(Arun Kumar Jha, J)

V.K.Pandey/-

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