

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66655 of 2021

Arising Out of PS. Case No.-459 Year-2021 Thana- SIKARPUR District- West Champaran

TARSHAN SAH @ TARSHAN KUMAR S/o Jhandu Sah R/o village- Roari, Ward No. 2,
P.S.- Shikarpur, District- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey, Advocate

For the Opposite Party/s : Mr.Binay Krishna.APP

Mr. Ashok Kumar Gupta, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 12-09-2022 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 Shikarpur P.S. Case No. 459 of 2021 registered for the alleged offences under Sections 376 and 420 of the Indian Penal Code under Sections 8 and 12 of POCSO Act and under Sections 3(i)(r)(s) of S.C./S.T. Act.

As per prosecution case, the petitioner established physical relationship with the informant giving her inducement of marriage giving her minority. They continued physical relationship and when the informant insisted on her marriage, the petitioner refused to marry. Lastly, he forced her entering into illicit

intercourse on 05.09.2021.

Learned counsel for the petitioner submits that from the F.I.R., it is apparent that there was hardly any inducement or force by the petitioner. The relationship between the petitioner and the informant was mostly consensual and they willingly entered into relationship out of love affair. The medical report also shows her age to be 19-21 years and this shows informant was not a minor during the relevant period. Learned Counsel further submits that the informant has filed a petition before the learned trial court and she has submitted that she has filed this case due to misunderstanding. The matter has been compromised and they are likely to get married in near future. Charge sheet has already been submitted in this case and the petitioner is in custody since 16.09.2021. The petitioner is having clean antecedent.

Learned APP for the State opposes the prayer for bail of the petitioner submitting that there is direct allegation against this petitioner. However, he concedes that the compromise has been entered into by the parties and an application to this effect has been filed before the learned trial court.

Having regard to the submission made on behalf of the parties and considering the fact that the medical report shows the petitioner was not a minor on the date of occurrence and further considering the consensual nature of the act and also considering

his period of custody and the submission of charge sheet, 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 District and Sessions Judge, 7th cum-Special Judge POCSO, Bettiah, West Champaran in connection with Shikarpur P.S. Case No. 459 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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