

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69074 of 2021

Arising Out of PS. Case No.-493 Year-2018 Thana- DANAPUR District- Patna

Mintu Jha, Son of Raja Jha Resident of Village - Raghapur Chainpura, P.S.- Raghapur, District - Patna, At present R/M Nivasi Pahalwan Ke Makan Me, P.S.- Fatuha, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Janki Devi Wife of Mintu Jha Resident of Mohalla - Gandhi Nagar, Gamtal, P.S.- Danapur, District - Patna.
3. Roma Kumari Daughter of Mintu Jha Resident of Mohalla - Gandhi Nagar, Gamtal, P.S.- Danapur, District - Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Krishnakant Upadhyay, Advocate Mr.Anil Kumar Singh, Advocate
For the Opposite Party/s	:	Mr.Surendra Kumar, APP Mr. Sanjeet Kumar, APP Mr. Neeraj Kumar, APP
For the Informant	:	Mr. Aditya Dev, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 26-09-2022 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 Special Case No. 219 of 2019 arising out of Complain Case No. 825(C) of 2018 and Danapur P.S. Case No. 493 of 2018 registered for the alleged offences under Sections 363 and 376 of the Indian Penal Code and Section 4 of the POCSO Act.

As per prosecution case, the petitioner is the second



husband of the complainant/informant. The petitioner was found in objectionable condition with his minor step daughter, the daughter of the informant with her first husband, and when the informant objected, she was abused and assaulted. Thereafter, the petitioner fled away with his step daughter and a complaint was lodged by the informant that her minor daughter was enticed away by the petitioner.

Learned counsel for the petitioner submits that petitioner is innocent and has been falsely implicated in this case. The victim girl willingly went away with the petitioner and this fact is apparent on the face of record as the victim girl did not make any hue and cry. The statement of the victim girl recorded under Section 164 Cr.P.C. is false and fabricated. She willingly went away with the petitioner to Himachal Pradesh and did not make any reaction to the acts of the petitioner. So, it shows consent of the victim. No medical examination was conducted and it could not be stated for sure that any offence under Section 376 I.P.C. is made out against this petitioner. The learned counsel further submits that the co-accused has been granted bail in Cr. Misc. No. 15301 of 2019 vide order dated 29.05.2019 by a Coordinate Bench. Charge sheet has been submitted in this case and the petitioner is in custody since 10.03.2021.

Learned APP for the State as well as learned counsel appearing on behalf of the informant oppose the prayer for bail made on behalf of the petitioner. Learned counsel for the informant submits



that there is specific allegation against this petitioner that he committed rape with the minor victim girl a number of times as stated by her in statement under Section 164 Cr.P.C. Further, the deposition of the victim girl as well as informant has been recorded before the learned trial court and they have consistently supported the prosecution case and the allegation against the petitioner that he committed rape with the minor victim.

Perused the records.

Having regard to the facts and circumstances and considering the nature of allegation against the petitioner which is quite grave and serious and further considering the relationship of the petitioner with the victim girl, it shows perversion on part of the petitioner and for the reasons aforesaid, I am not inclined to enlarge the petitioner on bail at this stage.

Accordingly, his prayer for grant of bail is rejected.

The learned trial court is directed to expedite the trial and conclude the same at the earliest.

Gautam/-

(Arun Kumar Jha, J)

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