

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68306 of 2021**

Arising Out of PS. Case No.-28 Year-2021 Thana- KANHHAULI District- Sitamarhi

HASIBUL ANSARI Son of Ainul Ansari Resident of Village - Betahi, P.s.-
Kanhauli, Distt.- Sitamarhi.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate

For the Opposite Party/s : Mr. Anuj Kumar Shrivastava, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER**

2 13-05-2022 Heard the parties through video conferencing.

Heard learned counsel appearing on behalf of the
petitioner and learned APP for the State.

Let the defect(s) be removed within two weeks of the
complete start of the physical Court in normal course.

Petitioner, who is in custody since 16.03.2021, seeks
regular bail in connection with Kanhauli P.S. Case No. 28 of
2021 registered for offences punishable under Section
366(A)/34 of the Indian Penal Code, and however after
investigation the police has submitted charge sheet under
Sections 363, 366(A), 372/34 of the Indian Penal Code and
Section 8/12 of the POCSO Act, which is pending in the Court
of learned A.D.J. - II, Sitamarhi.

Prosecution story in brief is that the informant, who is



the father of the victim has made a written report before Kanhauli Police Station that the petitioner had enticed his minor daughter with an intention to commit sexual assault.

Learned counsel appearing on behalf of the petitioner submits that no case is made out against the petitioner. The victim was examined by the Medical Board and according to the medical report her age has been determined to be between 18 to 22 years. Victim in her statement under Section 164 Cr.P.C. has admitted that she, on her own had gone along with the present petitioner. No sexual assault has been committed. He further submits that no case either under Section 363, 366(A), 372/34 of the Indian Penal Code and Section 8/12 of the POCSO Act is made out against the petitioner. Petitioner is in custody since 16.03.2021.

Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner.

Considering the nature of allegation made in the F.I.R., informant is the father of the victim girl, in absence of statement of the victim under Section 164 Cr.P.C., it would be in the interest of justice that the petitioner, if advised may approach the learned Court below and make his submission as made in the present bail application and the Court below after



recording the statement of the victim girl recorded under Section 164 Cr.P.C if not already recorded. if satisfied that no sexual assault has been committed by the petitioner and if it is confirmed that as per the opinion of the Medical Board, the victim is adult, in such circumstances, may further record the statement of the informant and mother of the victim girl as well as the parents of the present petitioner. Such exercise is expected to be done within a period of three months. The Court below without being prejudiced by the order dated 28.10.2021 may pass a fresh order in accordance with law.

With aforesaid observation, the present bail application is disposed of.

(Purnendu Singh, J)

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