

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70939 of 2021**

Arising Out of PS. Case No.-438 Year-2021 Thana- GHORASAHAN District- East
Champanan

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Amit Kumar Tiwari @ Amit kumar @ Amit Tiwari, S/o Vinod Tiwari, R/o
village- Sikandarpur, P.S.- Sangrampur, District- East Champanan

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Shakil Ahmad Khan, Advocate

For the State : Mr.Shyam Kumar Singh, APP

For the Informant : Mr. Madhurendra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 12-10-2022 Heard learned counsel for the petitioner, learned APP
for the State and learned counsel for the informant.

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 Ghorasahan P.S. Case No. 438 of 2021,
registered for the alleged offences under Sections 363, 365 and
376 of the Indian Penal Code.

As per the prosecution case, the daughter of the
informant went missing and later on during investigation the
fact surfaced that the petitioner and co-accused were involved
and it is further alleged that both of them committed rape with
the daughter of the informant.

Learned counsel for the petitioner submits that the



petitioner has been falsely implicated in this case due to some ulterior motive by the informant. The petitioner is a Sales Manager in HDFC Bank and was living in a rented premises in Motihari. The co-accused Amit Kumar Yadav and the victim lady came to him for loan for which he did not agree. The statement made by the victim lady is contradictory as she stated different facts in her statement under Section 161 Cr.P.C. and Section 164 Cr.P.C. The co-accused and the victim lady were living together and when they came to the house of the petitioner, they were apprehended by the police. It also appears from the statement of the lady recorded under Section 164 Cr.P.C. that she was planning to marry the co-accused and had gone with him for the said purpose. Learned counsel further submits that there is no friendship or any relation with co-accused Amit Kumar Yadav. The age of the lady was assessed by the Medical Board and she was found to be aged more than 19 years and even her father stated in the FIR that her age was 20 years. No corroborative evidence of rape was found during the medical examination. The petitioner is in custody since 10.10.2021 and is having clean antecedent. The charge sheet has been submitted.

Learned APP as well as learned counsel appearing on



behalf of the informant oppose the prayer for bail. Learned counsel for the informant submits that the victim girl has specifically named the petitioner who committed rape with her in her statement recorded under Section 164 Cr.P.C. She was recovered from the house of the petitioner. During investigation the age certificate of the victim girl was produced and from the certificate, it transpires that she is minor and therefore, the provisions of POCSO Act have been incorporated and the charge sheet has been filed and the cognizance has been taken by the Special Judge, POCSO Act.

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 Sections 164 Cr.P.C., I am not inclined to enlarge the petitioner on bail.

Accordingly, his prayer for bail is rejected.

However, learned trial court is directed to expedite the trial and conclude the same at the earliest as per mandate of law.

(Arun Kumar Jha, J)

V.K.Pandey/-

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