

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2916 of 2022

Arising Out of PS. Case No.-40 Year-2021 Thana- MAHILA P.S. District- Samastipur

Kundan Kumar, Son of Ram Japit Rai, Resident of Village- Simari (Alampur),
P.S.- Vidyapati Nagar, District- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sabal Kumar Jha, Advocate
For the State	:	Mr. Rajendra Singh Shastri, APP
For the Informant	:	Mr. Amit Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 01-11-2022 Heard learned counsel for the petitioner and learned
APP for the State as well as 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 Mahila P.S. Case No. 40 of 2021 registered for
the alleged offences under Sections 323, 34, 341, 363, 376(D),
504 and 506 of the Indian Penal Code and Sections 8 and 10 of
the POCSO Act and Section 27 of the Arms Act and later on
charge-sheet has submitted under Section 376(D), 363, 341, 504
and 506/34 of the Indian Penal Code and Section 4/6 of the
POCSO Act.

As per prosecution case, the petitioner and other co-



accused persons kidnapped the daughter of the informant when she went out to attend the call of nature. Further, allegation against the petitioner and other co-accused persons is that they committed rape with the minor daughter of the informant and they also threatened the informant not to lodge the case.

The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The alleged occurrence took place on 19.05.2021 but the FIR was registered on 14.06.2021 and there is no explanation for the inordinate delay of about 25 days. The victim girl has been medically examined and her age was assessed to be 17-18 years. The petitioner and informant are co-villagers and due to village politics the name of the petitioner has been roped in this case. The victim girl was having an affair with co-accused Raushan Kumar and due to pressure of the society, false case has been instituted by the informant. Learned counsel further submits that during the medical examination, no signs of sexual assault was found. The petitioner is in custody since 19.09.2021 and charge-sheet has been submitted.

Learned APP as well as learned counsel on behalf of the informant vehemently oppose the submissions made on behalf of the petitioner. Learned counsel for the informant



submits that the statement of the victim girl was recorded under Section 164 Cr.P.C. and she has specifically named the petitioner along with other co-accused persons, who kidnapped her at the gun point and committed rape with her. The medical examination of the victim girl was conducted after delay and so the doctor did not find any signs of rape or sexual assault at the time of examination.

Perused the records.

Having regard to the facts and circumstances and nature of allegation, which is quite grave and serious against this petitioner, I am not inclined to enlarge the petitioner on bail.

Hence, the prayer for bail is rejected.

However, the trial court is directed to expedite the trial and conclude the same as mandated under the POCSO Act.

(Arun Kumar Jha, J)

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