

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4906 of 2023

Arising Out of PS. Case No.-79 Year-2021 Thana- DHANKUND District- Banka

MD. GUFRAN, Son of Ajmat @ Md. Ajmat Ali, R/v- Bishanpur @
Bishunpur, P.S.- Dhankund, District- Banka

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Anshuman Singh, Advocate
		Mr. Hridayal Kumar, Advocate
For the Opposite Party/s	:	Mr. Dilip Kumar No. 1, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

5 12-04-2023 Heard Mr. Anshuman Singh, learned counsel for the
petitioner and learned APP for the State.

This is the second attempt whereby the petitioner is renewing his prayer for bail in connection with Dhankund P.S. Case No. 79 of 2021 registered for the offences punishable under Sections 366(A)/34 and 376 of the Indian Penal Code read with Section 4 of the Protection of Children from Sexual Offences Act.

Earlier the prayer for bail of the petitioner was rejected vide order dated 29.08.2022 passed in Cr. Misc. No. 26561 of 2022 after taking into consideration the statement of the victim recorded under Section 164 of the Cr.P.C. wherein she has specifically alleged that she was subjected to rape at the



hands of the petitioner, who is non-else, but the brother-in-law of the victim.

Learned counsel appearing on behalf of the petitioner has drawn the attention of this Court to Annexure-2 to the bail application wherein the victim filed a complaint against the informant of the present case with an allegation that he committed rape upon her. He further submits that the informant is the own brother of the complainant and in this regard a supplementary affidavit has also been filed, which is placed on record. He next submitted that admittedly even as per the statement of the victim, she voluntarily left her house with the petitioner and stayed with him at Bhagalpur for 4-5 days and in the meantime she never made any hue and cry nor tried to flee away, which also shows her willingness. He further submits that in the complaint petition, which later on converted into F.I.R., she herself declared her age to be 19 years and thus, *prima facie*, at the time of the institution of the present F.I.R. the age of the victim was 18 years and, as such, she was a major one. Apart from the aforesaid submission, it is also submitted that the petitioner having fair antecedent is in custody since 12.07.2021 and there is no likelihood of conclusion of the trial in near future irrespective of the fact that the matter is pending before the



court of Special Judge (POCSO), Banka.

On the other hand learned APP for the State opposes the bail application and submits that earlier the prayer for bail of the petitioner was duly considered and the same was rejected after considering the merit of this case and there is no new ground for renewing his prayer for bail.

Regard being had to the submissions made on behalf of the parties and considering the statement of the victim in the second complaint, which has later been converted into F.I.R., wherein she herself declared her age to be 19 years, which shows that the victim was major at the time of crime and moreover the statement recorded under Section 164 of the Cr.P.C. suggests that the victim was a consenting party at least to the extent of fleeing away to Bhagalpur, apart from the fact that there is no likelihood of conclusion of the trial in near future, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-VI-cum-Spl. Judge (POCSO), Banka in connection with Dhankund P.S. Case No. 79 of 2021 (G.R. No. 1713 of 2021), subject to the condition that one of the bailors will be the close relatives of the petitioner



with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

uday/-

U		T	
---	--	---	--

