

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21052 of 2023

Arising Out of PS. Case No.-27 Year-2022 Thana- MAHILA PS District- Gopalganj

KISHAN KUMAR @ KISHAN ARYAN SON OF RAJENDRA PRASAD
RESIDENT OF VILLAGE- PURANI CHOWK, WARD NO. 17 PS TOWAN
GOPALGANJ, DISTT- GOPALGANJ

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shubhangi Pandey, Adv. Mr. Anand Vardhan, Adv. Mr. Binay Kant Mani Tripathi, Adv.
For the Opposite Party/s	:	Mr. Rajiv Nayan, APP
For the Informant	:	Mr. Harendra Prasad, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 11-07-2023 Heard learned counsel for the petitioner and

learned counsel for the informant as well as learned A.P.P. for

the State.

The petitioner seeks bail in connection with
Gopalganj (Mahila) P.S. Case No. 27 of 2022/ (POCSO Case
No. 72 of 2022) dated 02.09.2022 registered for the offence
under Sections 241, 323, 376(3), 417, 504, 34 of the Indian
Penal Code and Sections 4 and 6 POCSO Act.

According to the prosecution case, the petitioner
has established physical relation with the minor daughter of
the informant on the pretext of marriage.

Learned counsel appearing for the petitioner



submits that the petitioner, who is of clean antecedent, is innocent and has falsely been implicated in this case. She further submits that the age of victim is recorded as 12.08.2000 in her school record and therefore, the victim was major at the time of occurrence and so on no case under Section 4 and 6 of the POCSO Act is made out against the petitioner. She further contended that she has not denied that the petitioner and the victim were having love affairs and the petitioner has established physical relation with the victim that too was consensual, therefore, no case under Section 376 of the Indian Penal Code is made out against the petitioner. She has further contended that the petitioner is ready to perform marriage with the victim. The petitioner is rotting in judicial custody since 03.09.2022.

Learned counsel for the informant as well as learned A.P.P. for the State on the basis of material available on record and the case diary, vehemently opposed the prayer for bail of the petitioner and submits that the petitioner has committed rape upon the minor daughter of the informant on the pretext of marriage. It is further submitted that the date of birth of the victim has been recorded in her school record is 14.07.2005 and she was minor at the time of



occurrence. He further submits that the statement of the victim under Section 164 Cr.P.C. has been recorded in which she has categorically stated that on the pretext of marriage, the petitioner has established physical relation with her with force. It has further been submitted that the medical report of the victim also supports the allegation as leveled in the F.I.R. as the doctor has opined that the victim was having pregnancy at the time of recording of her statement under Section 164 Cr.P.C. Therefore, medical report established that the victim has been subjected to sexual assault at the instance of the petitioner.

Considering the facts and circumstances of the case and the seriousness of offence committed by the petitioner with a minor girl, this Court is not inclined to enlarge the petitioner on bail. Accordingly, the prayer for bail of this petitioner is rejected.

(Rajesh Kumar Verma, J)

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