

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25687 of 2022**

Arising Out of PS. Case No.-277 Year-2021 Thana- BAIIRIYA District- West Champaran

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ID MOHAMAD MIAN Son of Late Sahjan Mian @ Jain Mian Resident of
Village -Dumariya, Ward no.9, P.s.- Bairiya, Distt.- West Champaran.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar Shrivastava, Advocate

For the Opposite Party/s : Mr.Mithlesh Kumar Khare, APP

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**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER**

4 30-01-2023 Heard the learned counsel for the
petitioner and the learned APP for the State.

The petitioner seeks regular bail in connection with Bairiya P.S. Case No.277 of 2021, registered for the offences punishable under Sections 376/323/325/379/34 of the Indian Penal Code read with Section 4 of POCSO Act.

The informant has alleged that when her daughter had gone to the shop of the petitioner on 26.12.2021, at about 9:00 a.m., in the morning, he had allured her and taken her



inside, whereafter, he had committed rape with her.

The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case, he is having a clean antecedent and he is languishing in custody since 27.12.2021. The learned counsel for the petitioner has referred to the report prepared by the doctor, who had examined the victim girl on the very same day to submit that the doctor has opined that there is no recent evidence of sexual assault. It is further submitted by referring to the statement made by the victim girl, under Section 164 Cr.P.C., before the learned Magistrate, which has been received in the present case from the learned Court below, that the victim girl has stated therein that while the petitioner was trying to commit some untoward incident with the victim girl, alarm was raised by her, resulting in people having arrived there, whereupon the victim girl was saved from the clutches of the petitioner.



Per contra, the learned APP for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the materials available on record as also considering the medical report of the victim girl which does not suggest any recent sign of rape, this Court finds that benefit of doubt can be granted to the petitioner for the purposes of grant of bail especially in view of the fact that he is having a clean antecedent and is languishing in custody since more than a year, hence, I deem it fit and proper to direct for release of the petitioner on regular bail.

Accordingly, the above named petitioner is directed to be enlarged 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 District &



Sessions Judge-VIIth-cum-Special Judge, POCSO,
West Champaran at Bettiah in connection with
Bairiya P.S. Case No.277 of 2021.

(Mohit Kumar Shah, J)

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