

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33336 of 2022

Arising Out of PS. Case No.-1 Year-2022 Thana- MADHEPUR District- Madhubani

Md. Riyaj S/o Kalamuddin R/o village- Umri, P.S.- Lakhnaur, District- Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Saghira Khatoon w/o Md. Babul r/o Village Islamabad Banki, P.S. Madhepur, District- Madhubani.

... .. Opposite Party/s

Appearance:

For the Petitioner/s : Mr. Md. Soban Asghar, Advocate
For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 10-04-2023 Let the defects, if any, pointed out by the office be removed within four weeks from the date of this order, failing which the matter be listed again under the appropriate heading for necessary action.

Heard learned counsel for the petitioner and the learned APP for the State.

Petitioner seeks regular bail in connection with Madhepur P.S. Case No. 01 of 2022, dated 03.01.2022, POCSO Case No. 21 of 2022 registered for the offences punishable under Sections 363, 366(A) and 34 of the Indian Penal Code and Sections 8/12 of POCSO Act.

As per the prosecution, the informant's minor daughter (victim) was kidnapped by this petitioner with the help of other accused persons over false pretext of marriage and malafide

intention. Further it is alleged that all the accused persons have established physical relation with the victim.

The main submissions advanced by learned counsel for petitioner are that the FIR itself shows that the informant is not the eyewitness of the alleged occurrence and the alleged offence of rape is not made out against the petitioner and the same has been attributed against the co-accused Md. Shamser with whom the victim had love affair and as per the allegation the petitioner simply helped the said co-accused in removing the victim from her parent's house, except this there is no any other allegation against the petitioner as per the medical opinion, the allegation of rape has been falsified and the medical board opined the victim's age between 15-16 years and against the petitioner the investigation has been completed and he has been languishing in jail since 27.02.2022 and he is 24 years old having fair and clean antecedent.

Learned APP for the State has opposed the bail prayer.

Considering the above submissions and mainly the facts that the main allegation of rape is against the co-accused and the petitioner has fair and clean antecedent and against him the investigation has been completed and as per the allegation his role was only to help the main co-accused in taking the victim, in my opinion, a lenient approach can be taken in respect of the

petitioner's prayer. Accordingly, let the petitioner named above be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of concerned Court in connection with Madhepur P.S. Case No. 01 of 2022, POCSO Case No. 21 of 2022 on the following conditions:

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court below and shall remain physically present as directed by the Court below and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(2) If the petitioner tampers with the evidence or the witnesses, in that case the prosecution will be at liberty to move for cancellation of his bail.

(3) One of the bailers shall be a close relative of the petitioner who has sworn affidavit in this miscellaneous petition.

(Shailendra Singh, J)

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