

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39086 of 2022

Arising Out of PS. Case No.-15 Year-2022 Thana- MAHILA P.S. District- Araria

MD. SHOYEB @ MD. SHOYAB AKHTAR Son of Tamijuddin @ Tamij
Resident of Village - Siktia, Ward No.- 4, P.S.- Jokihat, District - Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mrigendra Kumar, Adv.

For the Opposite Party/s : Mr. Mritunjay Kumar Nirala, APP.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

7 05-04-2023 Heard learned counsel for the petitioner and the
learned APP for the State.

Petitioner seeks regular bail in connection with Spl.
POCSO Case No. 09/2022 arising out of Mahila P.S. Case No.
15 of 2022 dated 07.03.2022 registered for the offences
punishable under Sections 341, 342, 376(3) and 506 of the
Indian Penal Code and Section 4 of POCSO Act.

It is alleged that this petitioner took the informant's
daughter in his medical shop when she was returning to her
home and committed rape with her.

The main submissions advanced by petitioner's
counsel are that the FIR was lodged after seven days of
commission of the alleged occurrence while the victim informed
her mother on the same day of the occurrence about the



commission of the alleged offence, in actual the father of the petitioner and father of the informant are full brothers and residing on their *Sikmi* land and in between them there is a land dispute, and a panchayati was held in between them by *Sarpanch* in *Gram Kutchery*, in which the informant was held guilty and a fine of Rs. 50/- was imposed upon him and thereafter with an intention to take revenge, the allegation of the FIR was falsely prepared and made. Further submission is that the trial of the petitioner has started and three witnesses of the prosecution have been examined and the petitioner has been languishing in jail since 16.03.2022.

Learned APP appearing for the State has opposed the bail prayer.

Heard both the sides and perused the FIR as well as case diary of this case. As per the FIR, the victim is stated to be 14 years old when the alleged occurrence took place and the FIR itself shows the reasons for delay in lodging the FIR and according to the victim's mother when the alleged occurrence took place, the father of the victim was out of station and in the statement recorded before the Judicial Magistrate, the victim herself supported the allegation of the FIR and the trial of the petitioner has started and the victim has not been examined till



now, considering all these facts, in my opinion it is not a fit case for bail to the petitioner at this stage. Accordingly, his bail prayer stands rejected.

The petitioner may renew his bail prayer after the examination of the victim in his trial.

The petitioner is also given a liberty to renew his bail prayer after six months if within the said period, the victim is not produced before the trial Court as a witness.

(Shailendra Singh, J)

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