

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40557 of 2022

Arising Out of PS. Case No.-9 Year-2022 Thana- MAHILA PS District- Aurangabad

SHIVAM KUMAR Son of Shashikant Sharma Resident of village - Purani
Shahar, Daudnagar, North From Magadh Hotel, Kamla Bhawan, P.S.-
Daudnagar, District - Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Satyam Shivam Sundaram, Advocate

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

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 24-01-2023 Heard the learned counsel for the petitioner and
the learned APP for the State.

The petitioner seeks regular bail in connection
with Aurangabad Sadar Mahila PS case no. 09 of 2022
instituted for the offences punishable under Sections 376, 506,
120(B) of the Indian Penal Code.

The case of the prosecution, in brief, is that the
informant who has been marked as 'X', in her written
application, has stated that the petitioner is her maternal
cousin brother and when she had gone to Daudnagar in the
month of May, 2018 and stayed at her maternal grandmother's
house for 05 days, the petitioner and the cousin brother of the
informant drugged the informant, resulting in her becoming



unconscious and when she woke up at 4 am in the morning, the petitioner was present in the room and had shown her nude photographs and videos to her, which he had taken on his mobile phone as also had threatened her that he would make the same viral if she did not allow him to establish physical relationship with him. It is further alleged that the petitioner had then raped the informant for 05 days continuously and then the victim girl had returned to the house of her father, nonetheless, the petitioner kept sending her nude photographs and videos on her mobile phone. It is also alleged that subsequently also, the petitioner had come to the house of the victim girl and under the threat of making her nude photographs and videos viral, had raped her again. The victim has further alleged that again on 28.04.2022 at about 11 am, the petitioner had come at the house of the victim girl and had requested her father to allow her to go to his house to look after his mother, who was very ill, whereupon, he had taken the victim girl on a motorcycle to Daudnagar and had again raped her there. Subsequently, the petitioner had also assaulted the victim girl, resulting in her being inflicted with various injuries, however, the victim had then informed her father about the alleged incident leading to her being scolded



by the petitioner, whereupon the petitioner had made the nude photographs and videos of the victim girl viral.

The learned Senior counsel for the petitioner submits that the petitioner is innocent, has been falsely implicated in the present case, he is having a clean antecedent and is languishing in custody since 14.05.2022. The learned Senior counsel for the petitioner has further submitted that it is un-believable that though the victim girl was being raped from the year 2018 onwards, however, she did not raise any objection, hence, the incident in question can at best be said to be consensual in nature.

Per contra, the learned APP for the State has vehemently opposed the prayer for bail and has submitted by referring to the materials available on record as also the impugned order dated 29.06.2022, that the complicity of the petitioner in the alleged occurrence is writ large and when the petitioner has raped the victim girl, in the year 2018, for the first time, she was a minor, hence, consent, if any, of the victim girl is of no consequence. It is also submitted that the act of the petitioner is demeaning and heinous, inasmuch as he had repeatedly raped the victim girl on the threat of making her nude photographs and videos viral.



I have heard the learned counsel for the parties and have also perused the impugned order dated 29.06.2022, which has elaborately considered the material available in the case diary. This Court finds that the complicity of the petitioner in the alleged occurrence is writ large from the records, the medical report shows the age of the victim girl to be 18-19 years and it has been opined therein that the victim girl is habituated of sexual act, the victim girl was subjected to rape for the last 04 years on several occasions by the petitioner, the victim girl was minor when she was raped for the first time in the year 2018 and the victim girl has also corroborated the alleged incident of commission of rape by the petitioner, in her statement made under Section 164 Cr.P.C., before the learned Magistrate, hence, I do not find any merit in the present petition, accordingly, the present petition stands dismissed.

(Mohit Kumar Shah, J)

rinkee/-

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

