

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42622 of 2023

Arising Out of PS. Case No.-15 Year-2023 Thana- MAHILA P.S. District- Kaimur (Bhabua)

PRIYA PATHAK @ BABOO PATHAK @ BABLU PATHAK @ PRIYA
NARAYAN PATHAK @ VIJAY NARAYAN PATHAK Son of Dharm Raj
Pathak Resident of village - Harala, P.S. - Sonhan, Distt. - Kaimur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. P.N. Shahi, Sr. Adv. Mr. Vinay Kumar Mishra, Adv.
For the Opposite Party/s	:	Mr. Anil Kumar, APP
For the Informant	:	Mr. Tribhuwan Narayan, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 30-08-2023 1. Heard Mr. Pushkar Narayan Shahi, learned senior
counsel for the petitioner, Mr. Tribhuwan Narayan, learned
counsel for the informant and Mr. Anil Kumar, learned
Additional Public Prosecutor for the State.

2. Petitioner, who is in custody since 26.05.2023 seeks bail, in connection with Mahila P.S. Case No.15/2023, dated 08.04.2023, registered for the offences punishable under Sections 376, 366(A), 342 of the IPC & Section 4 of POCSO Act.

3. According to prosecution case, the petitioner is alleged to have kidnapped the minor daughter of the informant and thereafter committed rape upon her.



4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the petitioner has not committed any offence as alleged in the F.I.R. He further submits that the medical report does not support the allegation as alleged in the F.I.R. as well as the statement of the victim recorded under Section 164 of the Cr.P.C. He further submits that in view of the aforesaid no case under Section 376 of the IPC is made out against the petitioner and the police after investigation submitted the charge sheet against the petitioner and the petitioner is in custody since 26.05.2023.

5. Learned counsel for the informant as well as learned Additional Public Prosecutor for the State on the other hand have vehemently opposed the prayer for bail of the petitioner and submits that the statement of the victim was recorded under section 164 Cr.P.C. in which she has categorically stated that the petitioner has committed rape upon her and learned counsel for the informant draws my attention towards opinion at serial no.3 that sexual assault cannot be denied but in the entire medical report, there is no sign of sexual assault upon the victim and on the date of occurrence the victim was minor.



6. Considering the aforesaid facts and the fact that the allegation as alleged in the F.I.R. does not support by the medical report and the petitioner has clean antecedent, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge POCSO-cum-Additional District Judge-VI, Kaimur at Bhabhua in connection with Mahila P.S. Case No.15/2023, subject to 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 and shall remain physically present as directed by the court 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 bail.

3. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the



acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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