

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41680 of 2022

Arising Out of PS. Case No.-29 Year-2022 Thana- MAHILA P.S BAGHA District- West
Champaran

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MUKHLAL SAH @ MUKHA SAH S/o Late Sukai Sah R/o village- Barwa,
Ward No. 11, P.S.- Bhairohanj, District- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey, Advocate

For the Opposite Party/s : Mr.Anita Kumari Singh, APP

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 12-01-2023 Heard the learned counsel for the petitioner
and the learned APP for the State.

The petitioner seeks regular bail in connection with Bagaha (Mahila) PS case no. 29 of 2022 instituted for the offences punishable under Sections 376, 313 of the Indian Penal Code and Sections 4 and 8 of POCSO Act.

The case of the prosecution in brief, according to the informant, is that the neighbour of the informant i.e. the petitioner herein had got the eye of his wife operated and as such, she could not prepare the food, thus, the petitioner had requested the informant to send her daughter for 4-5 days to his house to cook food, whereafter



the informant had sent her daughter to the house of the petitioner, who is aged about 14 years, for preparing food, about 4-5 months back. It is further alleged that the petitioner had then forcibly established physical relation with the daughter of the informant, resulting in her becoming pregnant, whereafter, the petitioner had administered certain medicine to the daughter of the informant for aborting the fetus, however the same resulted in the daughter of the informant suffering from severe pain in her stomach. Then, the informant had asked her daughter as to what had happened, whereupon, she had disclosed the entire occurrence and had also told that the petitioner had threatened him not to disclose the on-goings in between them.

The learned counsel for the petitioner submits that the petitioner is innocent, has been falsely implicated in the present case, is having a clean antecedent and he is languishing in custody since 09.04.2022. The learned counsel for the petitioner has further submitted that the F.I.R. has been lodged belatedly on 08.04.2022 and the falsity of the prosecution case is apparent from the fact that



the daughter of the informant had not disclosed about the incident to anyone for 4-5 months and only on account of the on-going dispute with regard to remuneration of the daughter of the informant for her services rendered at the house of the petitioner, the petitioner has been falsely implicated in the present case.

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 parties and taking into account the materials available on record as also considering the statement made by the victim girl under Section 164 Cr.P.C. before the learned Magistrate, who is admittedly a minor, inasmuch as her age has been assessed by the Medical Board to be in between 15-17 years, this Court finds that the victim girl has corroborated the incident of rape committed by the petitioner with her, which also stands corroborated from the report of the doctor who had medically examined the victim girl, in which, the hymen has been found to be ruptured, hence, there are ample materials available in the case diary



to show the complicity of the petitioner in the alleged occurrence. Under such circumstances, I am not inclined to grant bail to the petitioner, hence, the present petition stands dismissed.

(Mohit Kumar Shah, J)

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