

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52087 of 2023**

Arising Out of PS. Case No.-526 Year-2022 Thana- RAXAUL District- East Champaran

AJAY KUMAR Son of Biswanath Sah @ Bisnath Sah Resident of Village-
Naga Road, Ward No.-22, P.S.-Raxaul, District-East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh, Advocate

For the Opposite Party/s : Mr. Braj Kishore Pd., APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 18-08-2023 Heard the parties.

The petitioner is in judicial custody in connection with Raxaul P.S. Case No.526 of 2022 instituted under Sections 366A,34 of the Indian Penal Code and under Section 8 of the POCSO Act lodged on 06.11.2022 by the informant Gopal Prasad.

As per the prosecution story, the informant alleged that on the fateful day, he found the victim girl missing and later came to know that the petitioner has taken her away. This followed the FIR.

The case of the petitioner that they were in relationship and the girl had moved on her own, subsequently they got married and she was pregnant but when the parents/police forced, that led to abortion of the foetus and she also deposed against him. However, he has made a categorical statement in paragraph-9 that the medical board found the girl to



be 18-20 years of age and as such the POCSO Act is not applicable and thus it can be assumed that she gave consent to the relationship.

Learned APP opposes the prayer for bail.

Considering the submissions put forward by the learned counsel for the petitioner as also that he has remained in custody since 27.05.2023 (para-14 of the petition), do not have criminal antecedent, as per his categorical statement, the girl is more than 18 years of age, FIR lodged, ultimately will have to face the trial, this Court is inclined to grant him privilege of bail. If, however, it is found that the statement regarding the age of the girl is wrong, the bail order shall become infructuous.

Let the petitioner be released on bail on furnishing bail bond of Rs.10,000/-(Rupees Ten Thousand) with two sureties of the like amount each in connection with Raxaul P.S. Case No.526 of 2022 to the satisfaction of learned 7th Additional Sessions Judge-cum-Special Judge, POCSO Act, East Champaran at Motihari , subject to following conditions:

- (i) one of the bailor should be the family member of the petitioner who shall provide official document to show his bona fide;
- (ii) the petitioner shall appear on each and every date



before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial court itself;

(iii) the petitioner shall appear before the concerned police station every fortnight for next six months to mark attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

(Rajiv Roy, J)

Prakash Narayan

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