

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54002 of 2023

Arising Out of PS. Case No.-594 Year-2019 Thana- PURNEA SADAR District- Purnia

MD. ARIF Son of Hauda @ Mustak Ali Resident of village - Telle Rahika,
P.S. - Dagarua, Distt. - Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Viveka Nandsingh, Adv.
For the Opposite Party/s : Mr. Dinesh Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 30-08-2023 1. Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. Petitioner, who is in custody since 09.06.2023 seeks
bail, in connection with Special (POCSO) Case No.89/2019, arising
out of Sadar P.S. Case No.594/2019 dated 28.11.2015, for the
offences punishable under Sections 376 of the IPC & Sections 4, 6,
12 of the POCSO Act.

3. According to prosecution case, the petitioner is alleged
to have abducted the informant and 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 as per
allegation in the F.I.R., the petitioner has committed rape upon the



informant and co-accused namely Akmal was standing near the place of occurrence. He further submits that the statement of the victim was recorded under Section 164 Cr.P.C. in which, she has categorically stated that co-accused Akmal has committed rape upon her and she has not stated anything about the petitioner and the police submitted final form on 23.01.2020 in favour of petitioner but the learned court below disagreed with the charges submitted by the police, took cognizance under Section 376 and 120B of the IPC and Section 4 of the POCSO Act on 15.02.2020. The petitioner and the petitioner is in custody since 09.06.2023.

5. Learned Additional Public Prosecutor for the State on the other hand has vehemently opposed the prayer for bail of the petitioner and submits that there is direct and specific allegation against the petitioner that he has committed rape upon the victim.

6. Considering the aforesaid facts and circumstances, 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 8th Additional Sessions Judge-cum-Special Judge (POCSO) Purnea in connection with Special (POCSO) Case No.89/2019, arising out of Sadar P.S. Case No.594/2019 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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