

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53939 of 2022

Arising Out of PS. Case No.-115 Year-2022 Thana- BANMANKHI District- Purnia

Rupesh Kumar Paswan, Son of Raj Kishore Paswan, Resident of Mohania
Chakla, P.S- Banmankhi, Dist- Purnea.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Ajit Kumar Singh, Advocate
For the Opposite Party/s	:	Md. Ataur Rahman, APP
For the Informant	:	Mr. Anand Kishore Sinha, Advocate
		Mr. Brij Nandan Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 20-02-2023 Let the defect (s), if any, as pointed out by the office,

be removed within a period of four weeks.

Heard learned counsel for the petitioner, learned
A.P.P. for the State and learned counsel for the Informant.

In the present case, the petitioner seeks bail in
connection with Banmankhi P.S. Case No. 115 of 2022,
registered for the alleged offences under Sections 292 (A), 293,
376, 506 of the Indian Penal Code, Sections 67, 67 (A), 66 (E),
72 of the I.T. Act and Sections 4, 6 of POCSO Act.

As per prosecution case, allegation against the
petitioner is that he sexually exploited the minor daughter of the
informant and also prepared obscene photographs and videos of
the victim girl and made it viral through his mobile and



Facebook.

The learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case. From bare perusal of the FIR, it is apparent that the victim girl was a consenting party from the very beginning and the petitioner never forced her for any sexual act. The learned counsel further submits that the informant herself stated the age of his daughter to be 17 years and the daughter of the informant was not a minor during the said period and she was over 18 years. When the statement of the victim girl was recorded, she herself stated that she was in sexual relationship with the petitioner for the last six months and she used to call the petitioner at her house and used to make physical relationship with him. So it is not a case under Section 376 of the IPC and the offences under the IT Act are bailable in nature. The learned counsel further submits that even the statement under Section 164 Cr.P.C. was recorded almost after eight months of the registration of the FIR and it has been recorded under coercion and due deliberation on part of the informant. The petitioner is in custody since 01.05.2022 and the charge sheet has been submitted. The petitioner is having clean antecedent.

Learned A.P.P. as well as learned counsel for the



informant vehemently oppose the prayer for bail. It has been submitted on behalf of the prosecution that the witnesses examined during investigation have supported the prosecution case and the statement of the victim girl was recorded under Section 164 Cr. P.C. and she has specifically named this petitioner who committed rape on knife point with her and used to threaten her. The petitioner also made obscene photographs and videos of the victim girl viral. The trial has commenced and evidence of prosecution witnesses are being recorded.

Perused the records.

Having regard to the facts and circumstances and submissions made here-in-above and considering the possibility of consensual act on the part of the victim girl who appears to be quite mature and further considering the contradictory statements coming on record in police papers and also considering the clean antecedent of the petitioner along with his period of custody, the petitioner is directed to be released on bail on furnishing bail bond of Rs.20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-VIII-cum-Special Judge (POCSO), Purnea, in connection with, Special (POCSO) 59 of 2022, arising out of Banmankhi P.S. Case No. 115 of 2022,



subject to the conditions mentioned in Section 437 (3) of the
Code of Criminal Procedure and also the following conditions :

(i) One of the bailors will be a close relative
of the petitioner.

(ii) The petitioner will remain present on
each and every date fixed by the court
below.

(iii) In case of absence on three consecutive
dates or in violation of the terms of the bail,
the bail bond of the petitioner will be liable
to be cancelled by the court concerned.

(Arun Kumar Jha, J)

V.K.Pandey/-

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