

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56319 of 2023

Arising Out of PS. Case No.-436 Year-2023 Thana- KHAJANCHI HAT District- Purnia

Md. Taukir Alam, S/O- Md. Mojibur Rahman, R/O- Village- Adhang, P.S.-
Jalalgarh, Dist- Purnea, At Present Hajratganj, P.S.- K. Hat (Sahayak), Dist-
Purnea.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Raj Kumar, Advocate
For the Opposite Party/s	:	Mr. Binod Kumar, APP
For the Informant	:	Mr. Fazle Karim, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 09-11-2023 Heard Mr. Raj Kumar, learned counsel appearing on
behalf of the petitioner and the learned APP for the State. The
informant is represented by Mr. Fazle Karim, learned counsel.

2. The petitioner is apprehending his arrest in
connection with K. Hat (Sahayak) P.S. Case No. 436 of 2023
registered for the offences punishable under Sections 341, 323,
354, 225, 376/34 of the Indian Penal Code and Section 4 and 6
of the POCSO Act.

3. Allegedly on 12.07.2019, the petitioner committed
rape upon the complainant and on the pretext of marriage he
started exploiting her and after three years the petitioner refused
to solemnize marriage, which resulted into institution of the
complaint that was sent to the concerned police station under



Section 154(3) of the Cr.P.C. and thereafter the present F.I.R.

4. It is submitted on behalf of the petitioner that from the complaint, which is giving rise to the present F.I.R., it is evident that the alleged occurrence of rape is said to have been committed on 12.07.2019 and thereafter on the pretext of marriage that relationship continued till 28.12.2022 and thereafter this complaint has been instituted on 04.03.2023. He further drew the attention of this Court to the educational certificate of the victim issued by Board of High School and Intermediate Education, Uttar Pradesh, wherein her date of birth has been shown to be 20.08.2002 and on the basis thereof he submits that the victim was major on the alleged date of occurrence. That apart, the victim was examined by the Board of Doctors wherein her age has been assessed to be 22 years and, as such, even on the first date of occurrence she was a major. He, thus, submits that from the materials available on record, it appears that the victim and the petitioner had consensual relationship and later on when refusal has been made on the part of the petitioner to solemnize marriage with the victim, the present complaint has been instituted. He next submits that considering the age of the victim, the police submitted charge-sheet only for the offence under Section 376



of the Indian Penal Code and not for the offence under Section 4/6 of the POCSO Act. He lastly submits that the petitioner is a man of fair antecedent and he undertakes that he will fully cooperate in the investigation or participate in the proceeding.

5. On the other hand, learned APP for the State and the informant opposed the bail application and referring to the statement of the victim recorded under Section 164 of the Cr.P.C. submitted across the Board that the victim has supported the prosecution case as to how she was physically exploited at the hands of the petitioner on the pretext of marriage.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the victim and the petitioner had been in consensual relationship for such a long period, which doubted the entire prosecution case. That apart, prima facie, it appears that the victim was major on the alleged date of occurrence, coupled with the fair antecedent, let the petitioner, named above, in the event of his arrest or surrender before the court below within four weeks from the date of receipt/production of a copy of this order, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned 6th Additional Sessions Judge-cum-



Special Judge (POCSO) Purnea in connection with K. Hat
(Sahayak) P.S. Case No. 436 of 2023, subject to the condition as
laid down under Section 438 (2) of the Cr.P.C. with the further
condition that one of the bailors shall be the own/close relative
of the petitioner.

(Harish Kumar, J)

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