

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 54744 of 2022

Arising Out of PS. Case No.-75 Year-2021 Thana- KOTHI District- Gaya

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JITENDRA YADAV @ JITENDRA KUMAR S/O BRAHAMDEV YADAV
Resident of village- Majhigaon, P.S.- Kothi, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr Md Javed Jafar Khan, Advocate
For the S t a t e	:	Mr Sanjay Kumar Singh, APP
For the I n f o r m a n t	:	Mr Ujjawal Kumar Singh, Advocate

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

2 10-01-2023 Heard learned counsel for the petitioner and learned Additional Public Prosecutor (for brevity, **APP**) appearing for the State of Bihar.

The petitioner seeks bail in Protection of Children from Sexual Offences (for brevity, **POCSO**) Act Case No 32 of 2022 arising out of Kothi Police Station (for brevity, **PS**) Case No 75 of 2021 dated 08.11.2021 registered for the offence punishable under Sections 354B/34 of Indian Penal Code and Section 8 of the POCSO Act.

Allegation against the petitioner is that when the informant and the victim was attending a cultural programme, the victim had gone outside to attend the call of nature. It is, thereafter, alleged that petitioner along with one Raju Yadav has



tried to molest and rape her. On cry being raised by the victim, people have come and the perpetrators have fled away.

Learned counsel for the petitioner submits that the allegation is of failed attempt to rape. No rape has been committed even as per allegation. The petitioner is in custody since 30.07.2022. Identical allegation was levelled against co-accused Raju Yadav who has been allowed bail by order dated 18.08.2022 passed by this Court in Cr Misc No 26177 of 2022 (Annexure 2). The petitioner has clean antecedent.

Learned APP and learned counsel for the informant, however, submit that there is specific allegation against the petitioner and co-accused Raju Yadav. They have also assisted the Court with reference to the statement of the victim recorded under Section 164 of Criminal Procedure Code (for brevity, **Cr P C**).

Having considered the specific deposition of victim recorded under Section 164 of Cr P C, claim of parity with co-accused, custody of the petitioner viewed in the back ground of clean antecedent, this Court, for the purposes of grant of bail, is inclined to accept the submissions advanced by the petitioner's counsel. Prayer for bail is allowed. Let the petitioner, above named, be released on bail on his furnishing bonds of Rs



10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Exclusive Special Judge (POCSO) -cum- Additional Sessions Judge VII, Gaya in POCSO Case No 32 of 2022 arising out of Kothi PS Case No 75 of 2021 subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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