

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57919 of 2023

Arising Out of PS. Case No.-340 Year-2023 Thana- BRAHMPUR District- Buxar

Rahul Yadav S/O Vindhachal Yadav @ Vindhyachal Yadav R/O Village-
Chakani, P.S- Brahmpur, Distt.- Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bimlesh Kumar Pandey, Advocate
Mr.Amit Kumar Pandey, Advocate
For the Opposite Party/s : Mr.Arvind Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 10-11-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. In the present case, the petitioner seeks bail in connection with Brahmpur P.S. Case No. 340 of 2023, registered on 14.06.2023 for the alleged offence under Sections 376/34 of the Indian Penal Code and Section 4 of POCSO Act.

3. As per prosecution case, petitioner along with three unknown persons entered into the house of the informant in wee hour in the morning and committed rape with the minor daughter of the informant.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The informant is not the eye witness and the petitioner has



been named in this case with ulterior motive. The daughter of the informant is major and it was love affair between the daughter of the informant and this petitioner and the sexual relationship is consensual in nature. The statement of the victim girl was recorded under Section 164 of the Cr.P.C. and she stated that she called the petitioner to her house and thereafter, they went outside to an under constructed house and where they established sexual relationship. Learned counsel further submits that in worst case scenario the petitioner and daughter of the informant are in their adolescence and they were in consensual relationship and no force was used. Learned counsel further submits that though the medical report shows the recent sexual activity and age of the victim girl to be 15-16 years but as per the statement of the victim girl it was consensual relationship. Learned counsel further submits that the medical report shows the age of the petitioner to be 17-19 years. The petitioner has got no criminal antecedent. The petitioner is in custody since 15.06.2023 and charge sheet has been submitted.

5. Learned APP vehemently opposes the submission made on behalf of the petitioner. Learned APP submits that even in the statement recorded under Section 164 of the Cr.P.C. the age of the victim girl assessed by the learned Magistrate to be



15 years and she also stated her age to be 15 years. So even it was a consensual act on the part of the victim, the offence is made out against the petitioner since the consent of the minor is immaterial.

6. Having regard to the facts and circumstances of the case and submissions made on behalf of the parties and considering the fact that the victim girl is at the age where a girl develops sufficient maturity and understands the consequences of her act and also considering the tender age of the petitioner, the petitioner above named, is directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge 6th -cum- Special Judge, POCSO, Buxar/concerned court in connection with Brahmpur P.S. Case No. 340 of 2023, 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 bonds of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

DKS/-

U		T	
---	--	---	--

