

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61806 of 2022

Arising Out of PS. Case No.-515 Year-2021 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

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KUMAR ADITYA, aged about 19 years, gender- Male, Son of Vikash
Chandra Yadav Resident of Village- Chukti, P.S.- Mansi, District- Khagariya

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ramakant Sharma, Sr. Advocate
Mr.Kumar Kamal Nayan, Advocate
For the Opposite Party/s : Mr.Ram Sumiran Rai, App

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

7 20-04-2023 Heard learned Sr. counsel for the petitioner and the
learned APP for the State.

2. Petitioner seeks regular bail in connection with
Kotwali (Barari) P.S. Case No. 515 of 2021 dated 09.08.2021
registered for the offence(s) punishable under Section(s) 341,
323, 307, 354(B), 379, 504, 506 of the Indian Penal Code and
later on Section 376 of the Indian Penal Code, Sections 4 and 6
of Protection of Children From Sexual Offences Act and
Sections 67(A),67(B) and 67(E) of the I.T. Act were also added.

3. The main submissions advanced by the learned Sr.
counsel for the petitioner are that initially the victim recorded
her statement on 10.08.2021 in which she did not make any
allegation regarding the forceful physical relationship by this



petitioner as alleged by her in her statement before Judicial Magistrate and later on she was medically examined and no sign of sexual assault was found by the doctor concerned and thereafter she was again examined and her age was assessed between 18 and 19 years by the Medical Board and in that examination also, no sign of any forceful physical assault on her person was found and thereafter the victim developed a new story in her statement recorded under Section 164 Cr.P.C. and the same was recorded seven days after her first statement recorded by her before the investigating officer, in fact the victim was having affair with this petitioner and the same has been running for two years and when the said relationship came into the knowledge of the father of the victim, the instant matter was falsely prepared. Further submission is that the petitioner is suffering from neurological problem and the petitioner's trial has started and charges upon him were framed on 04.08.2022 but till date no prosecution witness has been examined. Further submission is that initially the FIR was registered under Sections 341,323,307,354(B),379,504, 506 and later on Section 376 of Indian Penal Code, Sections 4 and 6 of POCSO Act and Sections 67(A),67(B) and 67(E) of the I.T. Act were added and as per the prosecution, the victim's alleged obscene photographs



which were allegedly sent by this petitioner to the father of the victim, were produced by the informant to the investigating officer in a pen drive but the same has not been checked by a technical expert. Further submission is that the petitioner has fair and clean antecedent and he has been languishing in jail since 26.04.2022.

4. Learned APP appearing for the State has opposed the bail prayer.

5. Heard both the sides, perused the FIR and victim's statement recorded under Section 164 of Cr.P.C. As per the allegation, the petitioner on the alleged date of occurrence caught hold the victim with bad intention and thereafter started assaulting her and the said allegation gets corroboration from the victim's medical examination which is mentioned in paragraph no.33 of the case diary and later on the victim recorded her statement before the Judicial Magistrate in which she made serious allegation of forceful sexual relationship committed by this petitioner and also revealed that the petitioner took the obscene pictures and the same were sent to father of the victim and the said pictures and photographs were produced by the victim's father to the investigating officer, details of which have been mentioned in paragraph no.28 of the case



diary. Considering all these facts, in my opinion, it is not a fit case for bail to the petitioner at this stage. Accordingly, his bail prayer stands rejected.

6. As the petitioner’s trial has started and after the framing of charge, no prosecution witness has been examined till date, hence considering this aspect, the petitioner is given liberty to renew his bail prayer after six months, if within the said period, the victim is not examined.

(Shailendra Singh, J)

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