

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64799 of 2023

Arising Out of PS. Case No.-3 Year-2014 Thana- MAHILA P.S District- West Champaran

JAMIR MIYAN SON OF LATE HANIF MIYAN RESIDENT OF VILLAGE-
BHERIHARWA, PS- KANGALI, DISTT- WEST CHAMPARAN

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Sanjeev Kumar, Advocate Ms. Bharti Rai, Advocate
For the Opposite Party/s :	Mr. Binod Kumar, APP Mr. Bimlesh Kumar Pandey, Advocate Mr. Krishna Kant Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 06-12-2023

1. Heard learned counsel for the parties.

2. The petitioner has preferred this application for grant of regular bail in connection with Bettiah Mahila P.S. Case no.3 of 2014 registered under sections 376 and 34 of the Indian Penal Code and section 8 of the POCSO Act.

3. As per the prosecution case, the petitioner and one another are said to have committed rape on the informant.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the case. Final form was submitted on 23.10.2014 (Annexure-P/2), however, differing with the final form by order dated 20.9.2019, cognizance was taken under sections 376 and 34 of the Indian



Penal Code and section 8 of the POCSO Act against the petitioner and summons were issued. It is further submitted that co-accused Anjarul Haque is an Advocate at Civil Court, Bettiah and he was doing pairvi for the petitioner's wife in connection with Kangali P.S. Case no.35 of 2013. The medical report of the informant does not corroborate the allegation of rape. The story as narrated in the F.I.R. is unbelievable. The tower location of the petitioner is found in Motihari town and not in Bettiah which is the alleged place of occurrence. The petitioner has several children and grand children and he is in custody since 17.6.2023.

5. The application for bail is opposed by learned A.P.P. for the State and learned counsel for the informant. Learned counsel for the informant submits that by order dated 20.9.2019, on the basis of there being sufficient material in the case diary, cognizance was taken against the petitioner under sections 376 and 34 of the Indian Penal Code and section 8 of the POCSO Act, however, the petitioner continued to abscond till he was taken into custody on 17.6.2023. The F.I.R. was registered as far back as on 12.3.2014. The allegations against the petitioner is direct. It is lastly submitted that as per instructions received, trial has commenced.



6. Having heard learned counsel for the parties and taking into consideration the allegations against the petitioner together with the material that has transpired in course of investigation, the Court is not inclined to enlarge the petitioner on bail and the application is rejected.

7. Learned trial Court is directed to expedite the trial.

(Partha Sarthy, J)

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