

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64031 of 2022

Arising Out of PS. Case No.-63 Year-2022 Thana- MAHILA P.S. District- Saran

ABHISHEK GIRI @BHOLU GIRI Son of Late Shesh Nath Giri R/O Village-
Karahi, P.S- Baniapur, District- Saran at Chapra

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Harsh Anuj, Adv.

For the Opposite Party/s : Mr. Ramchandra Sahni, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 22-03-2023 Heard learned counsel for the petitioner and the
learned A.P.P. for the State.

The petitioner seeks bail in connection with Saran Mahila P.S. Case No. 63 of 2022 registered for the offence under Sections 376 of the Indian Penal Code and Section 4 of the POCSO Act.

The petitioner is alleged to have established forceful physical relation with the victim which is stated to be culminated in to pregnancy of the victim girl.

Learned counsel appearing for the petitioner submits that the petitioner, who is of clean antecedent, is innocent and has falsely been implicated in this case. He further submits that it appears from the F.I.R. that the



petitioner has established forceful physical relation with the victim due to which she became pregnant. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the petitioner has not committed any wrong with the victim rather as a matter of fact, the victim and the petitioner were having intact relation and out of which both were physically intimated consensually. He further submits that the statement of the victim was recorded under Section 164 Cr.P.C. but the same is contradictory to the statement of the informant and also the narration of the F.I.R. Therefore, no case under Section 376 of the Indian Penal Code is made out against the petitioner. The petitioner is rotting in judicial custody since 01.08.2022.

Learned A.P.P. for the State on the other hand vehemently opposed the prayer for bail of the petitioner and submits that the victim in her statement recorded under Section 164 Cr.P.C. has categorically stated that the petitioner has committed rape upon her as a result of which she got pregnant. The medical report also confirms that the victim was found pregnant at the time of her medical examination. He further submits that taking note of the statement of the victim and the opinion of the doctor,



commission of rape cannot be ruled out even if there might be minor contradictions in the statements of the victim and the informant. Hence, the petitioner does not deserve to be enlarged on bail.

Considering the fact and circumstances of the case, this Court is not inclined to enlarge the petitioner on bail. Accordingly, the prayer for bail of this petitioner is rejected.

(Rajesh Kumar Verma, J)

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