

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64157 of 2022

Arising Out of PS. Case No.-238 Year-2022 Thana- KADWA District- Katihar

MAZHAR ALAM @ MD MAZHAR ALI S/O Kurban @ Md. Kurban R/O
Village- Chowki, P.S- Kadwa, District- Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Bimal Kumar, Adv.
For the State	:	Mr.Sanjay Kumar, APP
For the Informant	:	Mr. Najeeb Ahmad, Adv.
		Mr. Thakur Brajesh Singh, Adv.

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

4 23-03-2023 Heard learned counsel for the petitioner as well as

learned APP for the State assisted by learned counsel for the

informant.

In this case, the petitioner is seeking regular bail in
connection with Kadwa P.S. Case No. 238 of 2022, registered
for the offences punishable under Sections 376 of the Indian
Penal Code and section 4/6 of the POSCO Act, 2012.

The father of the prosecutrix lodged FIR
mentioning therein that in the night of the occurrence at about
10:30 P.M he found her daughter aged about 15 years was
absent from her bed. Later on, he heard the sound of writhing of
her daughter. He went to the bamboo clamp, wherefrom the



sound was emanating and saw that the petitioner was committing some evil deed with his daughter and she was protesting. The villagers assembled and apprehended them red handed. Thereafter, the prosecutrix disclosed that the petitioner was committing evil deed with her for a period of one year and he continued committing evil deed on threatening that he would make her photographs viral. She also disclosed that the petitioner was making conversation to her on mobile number mentioned in the FIR. On the day of occurrence also, he called the victim to bamboo clamp and committed some evil deed with her.

Learned counsel for the petitioner has submitted that he is innocent. He is a brilliant in his studies and some educational certificates have been annexed. He has also submitted that uncle of the informant executed a sale deed in favour of mother of the petitioner. But he is not handing over the possession of that land to the mother of the petitioner and it was the reason for his false implication in this case. He has also submitted that there is some contradictions in the statements of victim recorded under sections 161 and 164 of the Cr.P.C.

On the other hand the learned counsel for the informant as well as the learned Addl.PP has opposed the prayer



for bail and submitted that the petitioner committed rape upon a minor girl and sections of POCSO have also been imposed. There is specific allegation that on the pretext of *Nikah*, he continued physical relations with her and he also threatened to make her photographs viral had she disclosed the occurrence to anybody. They have also submitted that she in her statements under section 161 as well as 164 of the Cr.P.C. has stated categorically that this petitioner had physical relation with her for a period of one year and on the day of occurrence also, he subjected her to sexual assault.

In my view, the petitioner does not deserve the privilege of bail. Accordingly, it is rejected.

(Nawneet Kumar Pandey, J)

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