

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67091 of 2022

Arising Out of PS. Case No.-46 Year-2021 Thana- MAHILA P.S. District- Madhepura

MD. ASGAR S/O MD. KALIM NADAF @ MD. KALIM Resident of
Village- Jotaili Idgah Tola, P.S.- Bihariganj, District- Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Viveka Nandsingh, Adv.

For the Opposite Party/s : Mr. Bhanu Pratap Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 28-04-2023 Heard learned counsel for the petitioner and the
learned A.P.P. for the State.

The petitioner seeks bail in connection with POCSO
Case No. 37 of 2021 arising out of Madhepura Mahila P.S. Case No.
46 of 2021 registered for the offence under Sections 341, 323,
376(B), 354(D), 379, 509, 506/34 of the Indian Penal Code and
Section 4 of the POCSO Act.

The petitioner is alleged to have committed rape upon
the minor daughter of the informant.

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
the allegation, as alleged in the F.I.R., is false and fabricated and
the petitioner has not committed any offence. No such
occurrence as alleged in the FIR has taken place. He further
submits that the occurrence is alleged to have taken place on



30.08.2021 whereas the F.I.R. has been lodged on 14.09.2021 after laps of fourteen days without explaining the delay occurred in institution of the F.I.R. Delay in lodging the F.I.R. itself creates suspicion over the prosecution version. The petitioner is rotting in judicial custody since 27.06.2020.

Learned A.P.P. for the State on the other hand on the basis of material available on record and the case diary vehemently opposed the prayer for bail of the petitioner and submits that there is direct allegation of commission of rape against the petitioner and the victim in her statement recorded under Section 164 Cr.P.C. has clearly stated that the petitioner has committed rape upon her on the point of pistol. The victim was also medically examined and her age was assessed as 15 to 17 years and opined minor.

Considering the facts and circumstances of the case and nature of offence and age of the victim, 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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