

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71047 of 2023

Arising Out of PS. Case No.-367 Year-2022 Thana- MAHNAR District- Vaishali

Vishal Kumar @ Vishal Paswan Son Of Ranjit Paswan Resident Of Village -
Karnauti, P.S. - Mahnar, District - Vaishali

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Surendra Kumar Singh, Advocate

For the Opposite Party/s : Mr. Narendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 07-11-2023 Heard learned counsel for the petitioner and learned
APP for the State.

02. In the present case, the petitioner seeks bail in connection with Mahnar P.S. Case No. 367 of 2022 registered on 10.12.2022 for the alleged offences under Sections 342, 366(A), 376/34 of the Indian Penal Code read with Section 4/6 of the POCSO Act.

03. As per prosecution case, the minor daughter of the informant was kidnapped by the petitioner and other co-accused persons and thereafter she was taken to different places where she was assaulted and forged affidavit of marriage was prepared and she was subjected to rape by the petitioner.

04. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this



case. The whole occurrence took place during a period of more than four months and the prosecution story is not believable at all. The daughter of the informant is not minor and her medical examination shows that her age was assessed to be 18 to 20 years. She went on her own with the petitioner and both of them solemnized marriage at Samastipur and thereafter she was taken to Ambala where the petitioner and the daughter of the informant stayed for quite sometime. During this period of four months, no alarm was raised by the informant's daughter. Learned counsel further submits that the petitioner and daughter of the informant were called by the informant and his family members to reconcile the matter, but the daughter of the informant was put under pressure and a false case was lodged against the petitioner and others. The police, after investigation, submitted final form against other co-accused persons finding no involvement of those persons in the alleged occurrence. The allegation of rape and the sexual assault is not believable and from the facts and circumstances, it is clear that no offence under Section 376 of IPC is made out against the petitioner. Moreover, the daughter of the informant refused to undergo medical examination, which falsifies the allegation of sexual assault. The petitioner has got no criminal history and he is in



custody since 21.08.2023.

05. Learned APP for the State opposes the prayer for bail submitting that there is specific allegation against the petitioner who committed rape with the daughter of the informant who is said to be a minor.

06. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact that the daughter of the informant is said to be major and she did not undergo in a medical examination and further considering the duration of the occurrence which casts doubt over the prosecution story and further considering the possibility of false implication and the period of custody of the petitioner, he is directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned 6th Additional District and Sessions Judge-cum-Special Judge, POCSO, Hajipur, Vaishali in connection with Mahanar P.S. Case No. 367 of 2022 subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and



every date fixed by the court below.

(iii) In case of absence for three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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