

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1107 of 2023

Arising Out of PS. Case No.-404 Year-2021 Thana- FORBESGANJ District- Araria

MD. KAUSHAR ALI @ ATIKUR RAHMAN Son of Shamser Ali R/V- Gudri
Mohalla, Ward No. 14, Forbesganj, P.S- Forbesganj, Dist- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Ramakant Sharma, Sr. Adv. Mr.Lakshmi Kant Sharma, Sr. Adv. Mr.Rajesh Kumar
For the Opposite Party/s :		Mr.Ajay Kumar No. 2
For the Informant	:	Mr.Kamal Kishore

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

ORAL ORDER

6 19-05-2023 Heard learned counsel for the petitioner as well as learned
APP for the State.

In this case, the petitioner is seeking regular bail in connection with Special (POCSO) Case No. 27 of 2021, arising out of Forbesganj P.S. Case No. 404 of 2021, registered for the offences punishable under Sections 376, 354(A), 504, 506 of the IPC, later on section 4 of the POCSO Act added.

The allegation against the petitioner is that at the pretext of marriage, he committed continuous rape upon the victim. The victim became pregnant and gave birth a child. Thereafter, he refused to marry with her. When she insisted for marriage, his family members abused her in filthy words.

The learned senior counsel Sri Ramakant Sharma for the petitioner has submitted that the entire allegation is false. As a matter



of fact, the informant is a married lady. She is major. Annexure-5 is the School Leaving Certificate of the informant, which shows her date of birth as 04.05.2001 and as per that certificate, she is major. He has submitted further that the DNA test of the child as per courts order was done and in the DNA test, the petitioner was not found to be biological father of that child, which falsifies the allegation. By drawing my attention towards Annexure-5, he has submitted that five months prior to the occurrence, an informatory petition was filed by father of the petitioner in the Court of Chief Judicial Magistrate, Araria, which was registered as *Sanha* Application No. 128 of 2021 in which the informant is accused no. 5. The petitioner is under custody since 04.04.2022. He is a person of clean antecedent.

On the other hand, the learned counsel for the informant has submitted that the Madarsa certificate filed by the petitioner is not genuine. During course of hearing, the learned counsel for the informant has produced the School Leaving Certificate of the informant, which shows that she was a student of Uttar Madhyamik Vidyalaya Sahebganj, Narpatganj. He has submitted further that the informant never studied in Madarsa and she was student of the above-mentioned school.

Considering the above-mentioned facts and circumstances, let the petitioner above-named be released on bail on furnishing bail bonds of Rs.10,000/- with two sureties of the like amount each to the satisfaction of learned Special Judge (POCSO)



Cum Addl. Sessions Judge-VI, Araria in connection with Special (POCSO) Case No. 27 of 2021, arising out of Forbesganj P.S. Case No. 404 of 2021, subject to the following conditions:-

(i) The petitioner shall cooperate in the disposal of trial and make himself available as and when required by the court.

(ii) If the petitioner is found involved in future in the similar type of offence, the prosecution will have liberty to file an application before the court below for cancellation of the bail of the petitioner and the learned court below will take decision in accordance with law.

The learned court below is directed to ascertain the authenticity and genuineness of the Madarsa certificate filed by the petitioner as Annexure-5, if it is found not genuine the bail bond shall be liable to be cancelled.

(Nawneet Kumar Pandey, J)

Kundan/Nirmal

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