

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72426 of 2022

Arising Out of PS. Case No.-142 Year-2022 Thana- SANOKHAR District- Bhagalpur

Arshad Ansari Son of Azij Ansari R/v- Dhanouri, P.S.- Sanokhar, District-
Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance:

For the Petitioner/s : Mr. Diwakar Yadav, Advocate

For the Opposite Party/s : Mr. Anant Kumar 1, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

- 3 28-04-2023 1. Heard learned counsel for the petitioner and the learned
APP for the State.
2. Petitioner seeks regular bail in connection with Sanokhar
P.S. Case No. 142 of 2022 dated 24.07.2022 registered for the
offences punishable under Sections 376 and 34 of the Indian Penal
Code and later on Sections 4 and 6 of POCSO Act were added.
3. The main submissions advanced by learned counsel for
petitioner are that the allegations levelled in the FIR as well as the
allegation of rape levelled by the victim in her statement recorded
under Section 164 of Cr.P.C. are completely false as there was love
affair in between the petitioner and the victim which has been
supported by the witnesses during investigation and the victim has
been recovered and independent witnesses namely, Shahjahan
Ansari and Md. Hadees Ansari clearly stated before the
Investigating Officer that there was love affair in between

petitioner and the so-called victim and they used to talk to each other through mobile phone and also used to meet and as per the medical expert's opinion, no sign of violence on private parts of the body of the victim was found and as per victim's own revelation her age is about seventeen years when she recorded her statement before Judicial Magistrate and there happens to be always two years gap in determination of age of a person on lower side and upper side from the revealed age as per the settled principle and moreover, the petitioner is a very young person in the present time and against him the investigation has been completed and he has been languishing in jail since 25.08.2022. Further submissions are that FIR was lodged three months after the alleged occurrence and before the institution of the FIR, a compromise was made in between the petitioner and the victim, of which a copy has been filed vide Annexure-2.

4. Learned APP for the State has opposed the bail prayer of the petitioner.

5. Considering the above submissions and mainly the petitioner's custody period, his young age and the fact that against him the investigation has been completed and also taking into account the fact that FIR was lodged after inordinate delay of three months from the alleged occurrence, in my opinion, it is a fit case for bail to the petitioner. Accordingly, let the petitioner named

above be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of concerned Court in connection with Sanokhar P.S. Case No. 142 of 2022, **on the following conditions that:**

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the trial Court and shall remain physically present as directed by the trial Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the trial Court.

(2) If the petitioner tampers with the evidence or the witnesses, in that case the prosecution will be at liberty to move for cancellation of his bail.

(3) One of the bailers shall be a close relative of the petitioner who has sworn affidavit in this miscellaneous petition.

(Shailendra Singh, J)

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