

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1163 of 2023

Arising Out of PS. Case No.-34 Year-2020 Thana- MAHILA P.S. District- Samastipur

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MUKESH KUMAR PANDIT Son of Arun Kumar Pandit R/v- Gohi, P.S.-
Warisnagar, District- Samastipur, Bihar, Pin Code-848133 Petitioner/s
Versus

THE STATE OF BIHAR Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Raghvendra Kumar, Adv.

For the Opposite Party/s : Mr. Zainul Abedin, APP

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

5 10-05-2023 Heard Mr. Raghvendra Kumar, learned counsel for the

petitioner and Mr. Zainul Abedin, learned Additional Public

Prosecutor for the State.

2. Petitioner renews his prayer for regular bail in

connection with Mahila PS Case No. 34/2020 dated 10.06.2020

registered for the offence punishable under Sections 313, 376 of

the IPC and Section 4 of the POCSO Act, 2012.

3. As per First Information Report, the petitioner has,

allegedly, committed rape upon the minor daughter of the

informant and when the victim girl objected, she was threatened

and on the pretext of solemnizing marriage, the petitioner

continued to establish physical relationship with the minor

daughter of the informant due to which she developed

pregnancy.

4. Learned counsel for the petitioner submits that

this is the second attempt for grant of bail on behalf of the

petitioner inasmuch as his bail application was rejected earlier

by this Court *vide* order dated 25.04.2022 passed in Cr. Misc.



No. 41148/2021. He further submits that when the matter was taken upon on 22.03.2023, this Court took note of the report of the learned ADJ-VI-cum-Special Judge, POCSO, Samastipur and observed that if the victim girl is not examined within one month, the Court may consider to grant bail to the petitioner.

5. Learned counsel submits that out of four charge-sheet witness, two of them have been examined and one doctor has also been examined except the victim girl and the I.O. . He next submits that since 22.03.2023, when the matter was taken by this court, two dates were fixed i.e., on 03.04.2023 and 17.04.2023 but the prosecution did not produce the victim girl for examination. He also submits that the third date was fixed on 01.05.2023 but on that date also, the victim girl was not produced for recording her evidence.

6. A supplementary affidavit has been filed by the petitioner bringing on record an FIR lodged by the side of the petitioner bearing Warisnagar PS Case No. 50/2022 for murder of grandfather of the petitioner in which the family members of the side of the informant has been made accused. Both the families are on inimical terms and there was money dispute between them for which an informatory petition was lodged by the side of the petitioner which is Annexure-3 to the present bail



application lodged prior to the present FIR.

7. Regards being had to the submissions made by the parties, taking into consideration the material on record and the fact that this is second attempt on behalf of the petitioner and despite order dated 22.03.2023 passed by this Court, the prosecution failed to examine the victim girl during course of trial for recording her evidence, petitioner is in custody since 03.06.2021, there is no likelihood that the petitioner will abscond or tamper with the evidences, I am inclined to grant regular bail to the petitioner subject to the condition that petitioner will be well represented on each and every date in the trial and if he fails to do so on two consecutive dates, his bail bonds will be liable to be cancelled.

8. Accordingly, let the petitioner, MUKESH KUMAR PANDIT be released on bail on furnishing bail bond of Rs. 20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned ADJ-VI-cum-Special Court, POCSO, Samastipur in connection with Mahila PS Case No. 34/2020.

(Anil Kumar Sinha, J)

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