

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15403 of 2024

Arising Out of PS. Case No.-298 Year-2023 Thana- KALYANPUR District- East Champaran

Raif Ali, aged about 25 years, Male Son of Azim Mian, Resident of Village-
Siswa Kharar, P.S.- Kalyanpur, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Subodh Kumar Barnwal, Advocate

For the Opposite Party/s : Mr. Nirmal Kumar Sinha, APP

**CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA**

ORAL ORDER

2 18-03-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner seeks bail in connection with Kalyanpur PS Case No. 298 of 2023 instituted for the offences punishable under Sections 341, 323, 324, 354(B), 379, 504, 506/34 of the Indian Penal Code and Section 4/8 of the POCSO Act.

3. As per the prosecution case, the allegation against the petitioner is that he forcibly carried informant's minor daughter in a sugarcane field started misbehaving with her and raped her.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence and has falsely been implicated in this case due to ulterior motive.



Petitioner has got no criminal antecedent as stated in para 3 of the petition. There is a delay of more than six days in lodging of the FIR, which shows that the written application is after thought. Petitioner is in custody since 15.12.2023.

5. Learned APP opposes the prayer for bail and submits that the petitioner has raped the minor daughter of the informant, so he does not deserve for bail.

6. From perusal of the FIR, impugned order of the learned 7th Additional Sessions Judge-cum-Special Judge, POCSO Act, East Champaran, Motihari dated 22.01.2024 and the statement of the victim recorded under Section 164 of the Cr.P.C., it appears that on the basis of written report lodged by the informant the case has been registered under Sections 341, 323, 324, 354(B), 379, 504, 506/34 of the Indian Penal Code and Section 4/8 of the POCSO Act against five accused persons including the petitioner. The allegation against the petitioner is very specific that he has raped the minor daughter of the informant. From perusal of the documents available on record, this Court finds that the victim's date of birth as per copy of school transfer certificate is 14.06.2008 and therefore, she appears to be 15 years, two months and four days of age, as per Medical Board has determined her age between 17 to 18 years



and the learned Magistrate has assessed her age 15 years and the victim herself has also disclosed her age 15 years at the time of giving her statement recorded under Section 164 of the Cr.P.C. The victim in her statement recorded under Section 164 of the Cr.P.C. has stated that the petitioner removed her *pyjama*, touched her bosom and put his inside her, so his prayer for bail stands on different footing. Charge in this case is to be ramed.

7. Considering the nature of allegation in the FIR against the petitioner, statement of the victim recorded under Section 164 of the Cr.P.C. and other facts discussed above as well as specific allegation against the petitioner, I am not inclined to grant bail to the petitioner.

8. Prayer for regular bail of the petitioner is hereby rejected.

9. The learned trial Court is directed to conclude the trial preferable within a stipulated period of one year from the date of receipt of this order.

(Ramesh Chand Malviya, J)

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