

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28597 of 2024

Arising Out of PS. Case No.-20 Year-2022 Thana- NAUHATTA District- Saharsa

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Rahul Sharma @ Rahul Kumar Son of Ganesh Sharma Resident of Village
Goriyari Chowk Ward No. 8, Forbesganj, District- Araria at present Nougaha
Bhagkohalia P.S. Forbeshganj District-Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Diwakar Prasad Singh, Advocate

For the Opposite Party/s : Mr.Dr.Mrityunjaya Kr.Gautam, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

5 23-08-2024 Heard Mr. Diwakar Prasad Singh, learned Advocate

for the petitioner and Mr.Dr. Mrityunjaya Kumar Gautam,

learned Additional Public Prosecutor for the State.

2. The application for grant of bail to the petitioner,
who is in custody in connection with Special (POCSO) Case
No. 54 of 2022 corresponding to Nauhatta P.S. Case No. 20 of
2022 registered for offences punishable under Sections 363,
366-A, 34 of the Indian Penal Code and Sections 8, 10 and 12 of
the POCSO Act.

3. Based upon the written report, the prosecution
alleges that on 08.01.2022 the daughter of the informant was
enticed away by the petitioner along with other accused persons.

4. Learned Advocate for the petitioner contended that



after 10 days the victim was recovered and she was dully examined by the medical board where her age has been assessed to be 17-19 years and in fact, the victim was a major. It is next contended that both the petitioner and the victim were in love however, subsequent to her recovery on the pressure being made by the parents and other family members, she has stated a different story and made allegation against the petitioner of committing illegal act upon her. It is also contended that in the investigation, it has come that the victim was taken to Kerala through different train and buses where they remained for three months and thereafter returned to the village. Had the victim forcibly been taken away and kept for three months, she would have every chance to get help from any other person in the way or where she was kept confined but that has never raised any protest. The aforesaid facts clearly suggest that she was a consenting party.

5. On the other hand, learned Advocate for the State referring to the statement of the victim vigorously contended that she made specific allegation against the petitioner that it is he, who committed rape upon her and kept confined and also assaulted her. It is also the contention of the learned Additional Public Prosecutor that the documentary evidence suggests that the girl was minor at the time of alleged occurrence.



6. Regard being had to the submissions made on behalf of the parties and considering the statement of the victim recorded under Section 164 of Cr.P.C. as also the fact that charge has already been framed and trial has already been commenced, this court is not persuaded to enlarge the petitioner on bail.

7. The present petition stands rejected.

8. However, the petitioner is at liberty to renew his prayer for bail after recording the deposition of the victim as well as the informant before the Trial Court.

(Harish Kumar, J)

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