

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53973 of 2024

Arising Out of PS. Case No.-31 Year-2023 Thana- MAHILA P.S. District- Madhepura

Pushp Raj Kunj @ Pushp Raj @ Pushpraj, Male, aged about 21 years, Son of Parmod Yadav @ Pramod Yadav, R/O Vill.- Pakilpar, Ward No. 05, P.S.- Murliganj, Dist.- Madhepura.

... .. Petitioner

Versus

1. The State of Bihar.
2. Saroj Devi, Female, aged about 36 years, Wife of Anoj Paswan, R/O Vill.- Pakilpar, Ward No.05, P.S.- Murliganj, Dist.- Madhepura.

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Rakesh Narayan Singh
For the State	:	Mrs. Sharda Kumari, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 08-08-2024 Heard learned counsel for the petitioner and learned A.P.P. for the State.

2. The petitioner seeks bail in connection with Madhepura Mahila P.S. Case No. 31 of 2023 dated 13.10.2023 registered for the offences punishable under Sections 341, 376D, 506 of the I.P.C., Sections 4, 6 of the POCSO Act and Sections 3(1)(r)(s)(w) and 3(ii)(va) of the SC/ST Act.

3. As per the prosecution case, the petitioner and other co-accused persons are alleged to have committed rape on the daughter of the informant.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in the



present case. It is submitted that the occurrence took place on 11.10.2023 as to when the F.I.R. has been lodged on 13.10.2023 after a lapse of two days and the delay in lodging the F.I.R. has not been explained by the prosecution. The victim was medically examined by the doctor and the doctor has opined the age of the victim between 17 to 19 years and 'No bruise or abrasion present on any part of body including private parts. There is no any recent sign of intercourse present at the time of examination'. It is further submitted that there was love between the petitioner and the victim and family members of the victim are against this relationship and for removing the petitioner from the way and teaching him a lesson, this false case has been lodged against the petitioner and other co-accused persons. There is no any independent eye witness to the alleged occurrence. No incriminating article has been recovered from the possession of the petitioner. The petitioner has clean antecedent as stated in paragraph no. 3 of the bail application. The petitioner is in custody in this case since 06.03.2024.

5.Learned A.P.P. for the State has opposed the prayer for bail petition of the petitioner and submitted that the statement of the victim has been recorded under Section 164 of the Cr.P.C. in which she has stated that the petitioner and the co-accused



Jyotish took her in a *Banana Orchard* by the motorcycle and forced to consume unknown substance and thereafter the petitioner committed rape on her.

6. Considering the aforesaid facts and circumstances of the case as well as the period of custody and the report of the medical examination of the victim, let the above named petitioner, be enlarged on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-VI-cum-Special Judge (POCSO), Madhepura/concerned court in connection with Madhepura Mahila P.S. Case No. 31 of 2023 with further condition:-

(I) The petitioner is directed to remain physically present before the learned court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the petitioner are liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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