

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4047 of 2023

In
CRIMINAL APPEAL (SJ) No.24 of 2022

Arising Out of PS. Case No.-38 Year-2019 Thana- SUGAULI RAIL P.S. District- West
Champaran

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Tunna Sah @ Tunnu Sah, Son of Bulena Sah, R/O Village- Sahraswa, P.S.-
Gopalpur, District- West Champaran.

... .. Petitioner

Versus

1. The State of Bihar
2. XXX, D/O Vipat Paswan, R/O Village-Sanwariya, P.S. Kangali, District-
West Champaran.

... .. Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Bimlesh Kumar Pandey, Advocate
For the State	:	Mr. Binay Krishna, Spl.PP
For the O.P. No. 2	:	Mr. Sujeet Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 10-04-2024 Heard learned counsel for the petitioner, learned

counsel for the informant-O.P. No. 2 and learned Special Public

Prosecutor for the State.

2. The petitioner in this case has renewed his prayer
for bail in connection with Rail Sugauli P.S. Case No. 38 of
2019 registered for the offences punishable under Sections
376B, 376C/34 of the Indian Penal Code, Sections 4, 6 and 17
of the Protection of Children from Sexual Offences Act and
Section 3(i)(xii) of the SC/ST (Prevention of Atrocities) Act. He
has one criminal antecedent and is in custody since 10.12.2019.

3. Earlier, the prayer of the petitioner for grant of
anticipatory bail and regular bail both were rejected by this



Court vide order dated 02.12.2019 and 17.03.2021 respectively.

4. Learned counsel for the petitioner submits that while rejecting the prayer for bail of the petitioner, this Court had granted liberty to the petitioner to renew the prayer for bail, if the trial is not concluded within six months for no reason attributable to the petitioner.

5. As per the prosecution story, in the year 2017, the informant eloped with this petitioner and with respect of the said incident, the mother of the informant lodged an FIR being Kangli P.S. Case No. 66 of 2017 against this petitioner. Since the informant was minor, she was kept in Remand Home, Patna. On 07.01.2019, when the informant was being brought by the police to Bettiah for appearance, the accused of Kangli P.S. Case No. 66 of 2017 accompanied them from Patna itself. On 08.01.2019, the informant boarded train to Bettiah in Muzaffarpur in the morning and after two hours, Tunna Sah called her in the bathroom of the train and established physical relationship with her which she did not disclose to anyone. On 27.06.2019, Superintendent suspected and enquired to which the informant narrated the whole story, thereafter, her medical examination was conducted and she was found pregnant.

6. It appears that right from the beginning, it has been



the stand of the petitioner that he was in love affair with the victim girl and had performed marriage with her. The case of the petitioner was that the victim girl was aged in between 17-18 years as per the assessment of the doctor but this Court had rejected his prayer for bail after noticing the submission of learned Special Public Prosecutor for the State that the date of birth of the victim girl is 05.03.2004. At that time, the victim girl was not major and she was not appeared before this Court through lawyer.

7. Now, there is a change of circumstance, the victim girl has attained majority and even as per her date of birth i.e. 05.03.2004, she is now more than 20 years. This Court had issued notice to the victim girl after learned counsel for the petitioner informed that now the victim girl is living at her matrimonial house.

8. Mr. Sujeet Kumar, learned counsel has entered appearance on behalf of the victim girl. He has made a categorical statement before this Court that she is living at her matrimonial house.

9. In the aforesaid view of the matter, learned Special Public Prosecutor for the State has not opposed the prayer for bail of the petitioner.



10. In the given facts and circumstances, this Court directs release of the petitioner on bail in connection with Rail Sugauli P.S. Case No. 38 of 2019 on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-I-cum-Special Judge, SC/ST/POCSO, West Champaran, subject to the conditions as laid down under Section 437(3) of the Cr.P.C.

11. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

12. This application stands allowed.

(Rajeev Ranjan Prasad, J)

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