

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76202 of 2023

Arising Out of PS. Case No.-48 Year-2022 Thana- MAHILA P.S. District- Araria

Md. Jahid Son of Md. Tajmul Resident of Village - Dahuwabari, Ward No.-
14, P.S.- Kursakanta, District - Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Gopal Kumar Jha, Adv.

For the Opposite Party/s : Mr.Satyendra Prasad, APP

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

5 20-03-2024 Heard learned counsel for the petitioner and

learned APP for the State.

2. The petitioner seeks bail in connection with

Araria (Mahila) P.S. Case No. 48 of 2022 instituted for the

offences under Sections 376/341 of the Indian Penal Code

read with Section 4, 6 of the POCSO Act.

3. As per prosecution case, the allegation against

the petitioner is of committing repeated rape upon the

Informant/victim girl who is aged about 14 years.

4. Learned counsel for the petitioner submits that

the petitioner is innocent and has committed no offence as

alleged against him and has falsely been implicated in the



present case. Learned counsel for the petitioner further submits that the date of occurrence is 23.06.2022 but, the F.I.R. was lodged on 23.08.2022 i.e. after inordinate delay of two months without there being any valid explanation for the same. He further submits that the victim girl was medically examined on 29.08.2022 and her dental age was found to be 18-22 years and there was no sign of fresh sexual assault upon her and, thus, submits that the victim girl is of more than 18 years of age and can take decision of her life. The Informant is a consenting party and is of more than 18 years of age, hence Section 376 I.P.C. and Section 4 and 6 of the POCSO is not attracted against the petitioner. The petitioner has no criminal antecedent as has been stated in paragraph no.3 of the present bail application. The petitioner is languishing in judicial custody since 14.07.2023. Learned counsel for the petitioner has filed supplementary affidavit stating therein that after investigation, the I.O. submitted the charge-sheet before the court below against the petitioner and another u/s 376 of the I.P.C. and u/s 4 of the D.P. Act and, thereafter, the learned court below has



taken cognizance on 11.08.2023.

5. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner stating that the victim girl in her statement made under Section 164 Cr.P.C. has supported the case against the accused and several witnesses have also supported the case of the prosecution.

6. Pursuant to the order of a Co-ordinate Bench of this Court, the learned court below has sent its report regarding stage of the case dated 6th of March, 2024 stating therein that the case is fixed for framing of charge on 12.03.2024.

7. Having heard rival contention of both the parties and considering the entire facts and circumstances of the case and the involvement of the accused petitioner in this serious nature of case, this Court is not inclined to grant bail to the petitioner.

8. Accordingly, the prayer for bail of the petitioner, above named, is rejected with a direction to the court below to expedite the trial and conclude the same expeditiously



preferably within a period of nine months from today.

9. If the trial is not concluded within the aforesaid period of nine months, the petitioner will be at liberty to renew his prayer for bail before the court below which will be disposed of on its merit without being prejudiced by this order.

(Rudra Prakash Mishra, J)

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