

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80614 of 2023

Arising Out of PS. Case No.-259 Year-2022 Thana- BELA District- Sitamarhi

Gulam Mustafa @ Mustafa S/O Md Umar Village- Bara, Ps. Bela, District.
Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Jha, Advocate

For the Opposite Party/s : Mr. Humayou Ahmad Khan, APP

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA

ORAL ORDER

3 07-03-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State as well as learned counsel for the
complainant/informant.

2. The petitioner apprehends arrest in connection with
Bela P.S. Case No. 259 of 2022 dated 13.10.2022 instituted for
the offence punishable under Sections 376, 313, 323, 120B of
the Indian Penal Code and under Section 4, 5, 7 of the POCSO
Act.

3. The allegation against the petitioner is that he
established physical relation with complainant several times on
the pretext of marriage. When the complainant became
pregnant, the petitioner secretly caused miscarriage and
thereafter he refused to marry her.

4. Learned counsel for the petitioner submits that the



petitioner is innocent and he has been falsely implicated in this case. It is further submitted that the complaint case was filed against the petitioner on 15.03.2021 for the offence of continuous sexual exploitation with complainant from 2018 to 01.08.2020. The said complaint case was referred under Section 156(3) Cr.P.C. by the Magistrate and accordingly F.I.R. has been registered on 13.10.2022. Learned counsel for the petitioner submits that as per the medical report of the victim girl, she is major aged about more than 21 years at the time of occurrence. Now, the victim is aged about 23 to 24 years, as such, the allegation against the petitioner under Section POCSO Act is not made out. Learned counsel for the petitioner submits that allegation against the petitioner is that the petitioner, on the pretext of marriage, established physical relation with the complainant/informant. Only due to refusal of the parents of the petitioner from marrying with the informant, the present case has been lodged. Lastly, it has been submitted that petitioner has no criminal antecedents.

5. On the other hand, learned A.P.P. for the State and learned counsel for the complainant/informant has vehemently opposed the prayer for anticipatory bail of the petitioner. Learned counsel for the informant submits that at the time of



occurrence, the victim was a minor. It is also submitted that statement of the victim recorded under Section 164 Cr.P.C. has supported the allegation levelled against the petitioner.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest / surrender of the petitioner within a period of six weeks from today, in connection with Bela P.S. Case No. 259 of 2022, he will be released on bail upon furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned ADJ-VI -cum- Special Judge, POCSO Act, Sitamarhi subject to condition as laid down under Section 438(2) of the Cr.P.C.

(Khatim Reza, J)

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