

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80909 of 2023

Arising Out of PS. Case No.-378 Year-2023 Thana- SIMRI BAKHTIYARPUR District-
Saharsa

MD. NAWAB S/O MD. MOMIN R/O VILLAGE- BHORHA WARD NO. 08,
P.S- BAKHTIYARPUR, DISTT.- SAHARSA

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Chandra Mohan Jha
For the Opposite Party/s : Mr.Shyameshwar Dayal

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

5 29-03-2024 Heard learned counsel for the petitioner, learned
counsel for the informant and learned APP for the State Shri
Jharkhandi Upadhyay.

2. The petitioner seeks bail in connection with
Simri Bakhtiyarpur P.S. Case No. 378 of 2023 registered for the
offence under Sections 376, 341, 323, 504, 506/34 of the Indian
Penal Code and under Section 4 and 6 of the POCSO Act.

3. As per the prosecution case, the allegation
against the petitioner is that he has sexual relationship with the
victim for seven months who was a minor and thereafter the
victim has given birth to a daughter. It has also come in the
prosecution case that a Panchayati was also conducted in which
the village people tried to marry the victim girl with the



petitioner but the petitioner did not accept the same.

4. It has been submitted by the learned counsel for the petitioner that from the reading of the statement of the victim girl, it will appear that the victim girl has said that rape was committed upon her but from her the further statement it appears that it is a case of consensual sex and after the victim became pregnant, she has filed this case for marrying the petitioner.

5. Learned counsel for the petitioner further submits that the petitioner is in custody since 9.8.2023.

6. Learned APP for the State and learned counsel for the informant have vehemently opposed the prayer of the petitioner for grant of bail.

7. It has been submitted by the learned counsel for the informant that the victim girl has been raped and a child has born. He also submits that a false statement has been made by the petitioner that the victim has been married to someone else whereas the victim is still unmarried.

8. The next submission of the learned counsel for the informant is that a false date of birth certificate of the victim girl has been manufactured by the petitioner.

9. I have considered the submissions of the parties.



10. From the reading of the statement of the victim girl it appears that the victim girl was in a relationship with the petitioner for seven months and whether she was falsely promised marriage or not is a question to be determined in the trial and whether the petitioner has manufactured and forged some documents will also be seen at the stage of trial.

11. Considering the aforesaid facts and the period of custody, this application is allowed.

12. Let the petitioner, above named, be released on bail on furnishing bail bond 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, Saharsa in connection with Simri Bakhtiyarpur P.S. Case No. 378 of 2023.

13. As a condition of this order, the petitioner, after being released on bail is directed to co-operate in the trial either by appearing personally or through his lawyer in the trial Court on each and every date fixed by the trial Court. Non-compliance of the condition will result in cancellation of the bail bonds of the petitioner.

(Sandeep Kumar, J)

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