

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83059 of 2023

Arising Out of PS. Case No.-192 Year-2022 Thana- BARHIYA District- Lakhisarai

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GAUTAM BHARTI SON OF LATE RAJENDRA SAW RESIDENT OF
VILLAGE- BARAHIYA, P.S.- BARAHIYA, DISTRICT- LAKHISARAI

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Dr. Anand Kumar, Advocate
For the State	:	Mr. Arun Kumar, APP
For the Informant	:	Mr. Kumar Shanu, Advocate
		Ms. Sonali Kishore, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

- 2 10-01-2024 1. Heard learned counsel for the petitioner, learned APP for the State and learned counsel for the informant.
2. The petitioner has preferred this application for grant of regular bail in connection with Barahiya P.S. Case no.192 of 2022 registered under sections 366A, 376 and 34 of the Indian Penal Code and section 4 of the POCSO Act.
3. As per the prosecution case, the petitioner is said to have taken away the 15 year old minor daughter of the informant and of having raped her.
4. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the case which would be evident from the reading of the F.I.R. as also order of the learned Court below. Referring to the order of the learned trial



Court, it is submitted that in her statement under section 164 Cr.P.C., the alleged victim has categorically stated that she went with the petitioner out of her own sweet will. Learned counsel further referring to the Aadhaar card, Pan card etc. of the alleged victim submits that the so called victim is not a minor but a major. No offence under the POCSO Act would be made out. She has already been examined in the learned trial Court so there is no chance of any tampering of the witnesses. The petitioner is in custody since 15.11.2022 and has no criminal antecedent. He undertakes to cooperate in the trial and to abide by all the conditions which may be laid by this Court for his release on bail.

5. The application for bail is opposed by learned A.P.P. for the State and learned counsel for the informant. Learned counsel for the informant submits that not only the petitioner is named in the F.I.R. but there is direct allegation against him of having raped the minor daughter of the informant and even in course of trial, charge has been framed under the POCSO Act. With respect to the statement under section 164 Cr.P.C. of the victim, learned counsel submits that in course of deposition during trial, the victim was examined as P.W.6 and she has categorically stated that she was threatened to make the



statement under section 164 Cr.P.C. She has supported the prosecution case against this petitioner. The trial has already progressed and bail may not be granted.

6. Having heard learned counsel for the parties and taking into consideration the nature of allegation against the petitioner, the trial having progressed in the learned Court below and the contents of the statement of the victim (P.W.6) examined in course of trial as given in detail in the order of the learned trial Court, the Court is not inclined to enlarge the petitioner on bail and the application is rejected.

7. Learned trial Court is directed to expedite the trial.

(Partha Sarthy, J)

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