

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63633 of 2024

Arising Out of PS. Case No.-197 Year-2020 Thana- MANJHAGARH District- Gopalganj

Minhaz Alam @ Shahil @ Shahil Miya @ Samir S/o Late Md. Mustufa @
Suruj Miya R/o Village Piyaaur, PS- MH Nagar, District -Siwan

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kishnath Sah S/o Late Narayan Sah R/o vill - Sareya Akhteyar, P.s. -
Manjhagarh, Distt. - Gopalganj

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Devashish Giri, Adv.

For the Opposite Party/s : Mr. Asha Devi, APP

CORAM: HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY
ORAL ORDER

5 16-01-2025 Heard learned counsel for the petitioner Mr.
Devashish Giri and learned APP for the State.

2. The petitioner has prayed for regular bail in a case registered for the offence punishable under sections 363, 366(A)/34 of the Indian Penal Code in which later on charge-sheet has been submitted by the police against the petitioner for the offences under Sections 363, 366A, 376, 34 of the Indian Penal Code and Section 4 and 6 of the POCSO Act and charges against the petitioner have been framed by the learned trial court for the offences under Sections 363/34, 366/34, 376(DA) of the Indian Penal Code and 4, 6 of the POCSO Act.

3. The case of the prosecution is that the minor



daughter of the informant went from her house saying that she is going to her friend's Renu's house and when she did not return on a considerable time, the informant inquired for her, he came to know that Kiran Kumari, Sushant Sharma, Prashant Kumar and Rajan Sharma have taken her away.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. He has falsely been implicated in this case. He has got no criminal antecedent. During investigation, the victim was recovered and she has given her statement under Section 161 and 164 of the Cr.P.C. as well. In her statement under Section 161 of the Cr.P.C., the victim has stated that the associate of Bhola Miya, Shabana Khatoon called her from her house and when she went there Bhola Miya and one another forcefully took her on a bike, on a knife point, they handed over to somebody else. After that she was taken on a *Auto* and after that she was taken to Muzaffarpur, she was put in a room and forcefully, she was raped. In her statement under Section 164 of the Cr.P.C., the victim has stated that this petitioner has taken her to Gopalganj and from there he has taken her to Muzaffarpur and on promise of marriage, he established physical relation. The victim has also stated that she wants to marry with the petitioner.



The medical examination of the victim has conducted on 14.08.2020 and Doctor has found no mark of injury on the private parts of the victim. From perusal of the FIR, it is clear that the case of the prosecution is that the victim has given to her house of friend Renu. In her statement under Section 161 of Cr.P.C., she has stated that some unknown persons have taken her away and in her statement under Section 164 of the Cr.P.C., she has stated that the petitioner has established physical relation on promise of marriage. The story of the prosecution seems to be developed from the stage of FIR to the stage of Statement of the victim under Section 164 of the Cr.P.C. Moreover, the age of the victim as assessed by doctor is 16 to 17 years and from perusal of the case diary, it is clear that though she was taken away forcefully by petitioner and others, she has made no hue and cry. It is further submitted that the petitioner is languishing in judicial custody since 01.04.2024.

5. Learned APP appearing for the state has opposed the prayer of regular bail.

6. Having heard learned counsel for the parties and considering the facts and circumstances of the case as well as custody of the petitioner, this court is inclined to enlarge the petitioner on bail. The above named petitioner is directed to be



released on bail in connection with POCSO Case No. 32 of 2023 arising out of Manjagarh P.S. Case No. 197 of 2020 on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Court of VIth. Addl. Sessions Judge-cum-Special Judge POCSO, Gopalganj.

(Ashok Kumar Pandey, J)

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