

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62037 of 2024

Arising Out of PS. Case No.-33 Year-2016 Thana- MAHILA P.S. District- Kishanganj

Aslam @ Kalu, (M), aged about 35 years, Son of Israrul Haque @ Israil Haque, R/o Village- Dharmtoli Haldikhora, P.S.- Kochadhaman, District- Kishanganj

... .. Petitioner

Versus

1. The State of Bihar
2. XYZ, (F), aged about 16 years, D/o Md. Tauhid, R/o Village- Katharo, P.S.- Palasi, District- Kishanganj

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Raj Kumar, Advocate
For the O.P. No. 2	:	None.
For the State	:	Mr. Anil Kumar Singh No. 1, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

5 15-04-2025 Heard learned counsel for the petitioner and learned A.P.P. for the State. None appears on behalf of the opposite party no. 2 despite service of notice received by the father of the informant.

2. The petitioner seeks bail in connection with POCSO Case No. 20 of 2024, arising out of Kishanganj Mahila P.S. Case No. 33 of 2016 dated 10.08.2016 registered for the offences punishable under Sections 376, 366, 343, 379 of the I.P.C. and Sections 8 and 12 of the POCSO Act.

3. As per the prosecution case, the informant passed the examination of Maulvi in the month of March, 2016. It is



further alleged that the informant used to go to 'Insan School', Kishanganj from her house for appearing in the examination of Maulvi through the vehicle of the petitioner and in that course introduction and thereafter conversation also took place between them. It is further alleged that three months ago, on the instruction of the petitioner, the informant came to meet him at the back side of the bamboo clump of the house of her Fua where the petitioner forcibly committed rape on her and on protest, he promised to marry her. Thereafter, the petitioner used to call here and there and used to establish physical relationship with her. It is further alleged that on 18.07.2016 at about 3.00 P.M., the informant was going to the house of her maternal uncle at Andhasur by Auto rickshaw, in the meantime, the petitioner came on Bolero vehicle at Shitalnagar Chowk and took her to Siliguri and confined her for seven days in a rented room at Durgadas Colony and had been continuously establishing physical relationship with her and also snatched golden chain, ear-ring and Payal from her and kept with him. It is further alleged that on the eighth day, the petitioner left the informant and fled away from there. Thereafter, an information was given through phone to the house of the informant through the landlord then on 03.08.2016 her father and brother came and



took her from Siliguri. Thereafter, a panchayati was held to pacify the matter but the petitioner and his family members denied to obey the order of the Panch. Thereafter, the F.I.R. has been lodged.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. It is submitted that the alleged occurrence took place three months ago prior to 18.07.2016 and on information, the father and the brother took the informant with them on 03.08.2016 from Siliguri but the F.I.R. has been lodged on 10.08.2016 and the delay in lodging of the F.I.R. has not been explained by the prosecution. It is further submitted that the informant raised mere suspicion that the petitioner had kidnapped her with intent to commit rape on her. It is submitted that the petitioner neither took the informant anywhere or to the place of occurrence nor committed rape on her forcibly as allegation levelled in the F.I.R. It is further submitted that there was love affair between the parties and Nikah was also performed but the family members of the informant were not happy with their Nikah, hence, the family members of the informant forcibly lodged the F.I.R., by the informant. It further appears from the back side of the service of notice served on the



father of the informant that the process server came to know through the Panches and witness that the informant was murdered for which a case was lodged. The petitioner has clean antecedent as stated in paragraph no. 3 of the bail petition. He is in custody in this case since 09.04.2024.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner and has further submitted that the petitioner kidnapped the informant and forcibly committed rape on her several times.

6. Considering the aforesaid facts and circumstances of the case and finding substance in the contention of the learned A.P.P. for the State as well as the heinous nature of allegation against the petitioner, this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with Kishanganj Mahila P.S. Case No. 33 of 2016, pending in the court of learned Special Judge, POCSO Act, Kishanganj.

7. The application stands rejected.

(Chandra Prakash Singh, J)

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