

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71000 of 2024

Arising Out of PS. Case No.-186 Year-2023 Thana- BARSOI District- Katihar

Noor salim Son of Md. Sabir Resident of Village- Kaswa Toli, PS- Barsoi
(Kachana OP), Distt.- Katihar

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rozy Khatoon D/O- Md. Mastan Resident of Village- Kaswa Toli, P.S.-
Barsoi (Kanchana O.P.), Distt.- Katihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Raghvendra Kumar Singh, Adv.
For the Opposite Party/s : Mr.Rajendra Nath Jha, APP

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

5 24-01-2025 Heard learned counsel for the petitioner and learned
APP for the State as also learned counsel for the Informant.
Perused the case diary.

2. The petitioner seeks bail in connection with Barsoi
(Kachna O.P.) P.S. Case No. 186 of 2023 instituted for the
offences under Sections 376, 341, 323, 313, 504 and 506 of the
Indian Penal Code and Section 4 of the POCSO Act.

3. As per prosecution case, the accusation against the
petitioner is of forcibly committing rape upon the minor victim
girl/informant by giving threat to kill her as also by alluring her
on the false pretext of marriage.

4. This is the second attempt of the petitioner with a



prayer for bail. Earlier, the prayer for bail of the petitioner was rejected by this Court itself vide order dated 23.04.2024 passed in Cr. Misc. No. 78241 of 2023. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely implicated in the present case. Learned counsel for the petitioner further submits that there was a love affair between the petitioner and the complainant/informant for two years. The complainant/Informant is a major aged about 19 years. There is no independent witness who has supported the allegation levelled against the petitioner. From the medical report, it appears that there is no marks of injury on her body or around her private parts. No spermatozoa was also found but, has stated that she has been used for sexual intercourse. There is no direct or indirect evidence against the petitioner which connects the allegation against the petitioner. Charge-sheet has been submitted in this case. The petitioner has no criminal antecedent and is languishing in judicial custody since 19.07.2023 without any rhymes or reason.

5. On the other hand, learned A.P.P. for the State and the Informant have vehemently opposed the prayer for grant of bail to the petitioner, stating that the offence alleged against the petitioner is serious in nature. The petitioner is named in the



F.I.R. and the victim girl is a minor. The victim girl in her statement recorded under Sections 161 Cr.P.C. and the 164 Cr.P.C. has supported the allegation of rape committed by the petitioner upon her. The medical report also corroborates the allegation of rape committed upon the victim girl and charge-sheet has also been submitted against the petitioner for offence under Section 376 of the I.P.C. and Section 4 of the POCSO Act and, hence, he does not deserve bail of this Court.

6. In compliance to the earlier order of this Court, the learned court below has sent its report, stating therein that out of 9 prosecution witnesses, six witnesses have been examined and the trial is at progress as only four witnesses including the doctor are yet to be examined. It has further been stated that it is expected more six months time to conclude the trial.

7. Having heard rival contention of both the parties and considering the nature and gravity of the offence as also the report sent by the court below stating therein that the trial is at an advance stage, this Court is not inclined to grant bail to the petitioner.

8. Accordingly, the prayer for bail of the petitioner, above named, is rejected at this stage with a direction to the court below to expedite the trial and conclude the same



expeditiously preferably within a period of six months as stated in the report sent by the learned court below.

9. The District Magistrate, Katihar and the Senior Superintendent of Police, Katihar are also directed to ensure presence of the rest of the witnesses as and when required by the learned court below.

10. Let a copy of this order be sent to the District Magistrate, Katihar and the Senior Superintendent of Police, Katihar for strict compliance of this order.

(Rudra Prakash Mishra, J)

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