

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79267 of 2024

Arising Out of PS. Case No.-36 Year-2024 Thana- MAHILA P.S. District- Bhagalpur

Md. Idrish @ Iddi, S/o Jahur Miyan, R/o Village-Birbanna, P.S-Antichak,
District- Bhagalpur.

... .. Petitioner

Versus

1. The State of Bihar
2. XXXXX, D/o Md. Iqbal, R/o Village-Rahmatbag, P.S-Madhusudanpur,
Distt.- Bhaglapur.

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Jha, Advocate
For the Opposite Party/s : Mr. Ahmad Ali, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 29-01-2025 Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State.

2. The accused/petitioner seeks bail in connection

with POCSO Case No.127 of 2024 arising out of Bhagalpur

Mahila P.S. Case No.36 of 2024 registered for the offences

punishable under Sections 376-D, 341, 323, 504, 506 read

with 34 of the Indian Penal Code and Section 4 of the

Protection of Children from Sexual Offences Act (for short

‘POCSO Act’).

3. The accused/petitioner is named in the FIR and

is in custody since 10.06.2024.



4. The allegation against the petitioner is to commit rape upon the informant/victim continuously for long two years, where victim at the time of lodging FIR, i.e. 02.06.2024 claimed her age about 18 years.

5. It is submitted by learned counsel appearing for the petitioner that petitioner is a 65 years old person and crossed his marriageable age and when he objected to use the house, where informant usually established physical relationship with co-accused, Md. Azhar, he was implicated falsely with present case. It is further submitted that narration of FIR clearly suggested that informant was in love affairs with Md. Azhar aged about 28 years and she established physical relationship with said Azhar on several occasions and out of said physical relation, she became pregnant. It is also pointed out that cause for lodging of present FIR is the refusal of co-accused Md. Azhar to get the informant married. It is further pointed out by learned counsel that no defined documents as available under Section 94 of the Juvenile Justice (Care and Protection of Children) Act was collected by police in support of the age of victim, whereas



upon radiological examination, the doctor found the informant between the age group of 16-17 years and, therefore, if marginal benefit of plus (+) minus (-) two years be given, the informant/victim appears major on the date of occurrence. While concluding argument, it is submitted that investigation of this case is completed, for which, charge-sheet has been submitted and, as such, there is no chance of tampering with the evidence and moreover the petitioner is man of clean antecedent.

6. Learned APP while opposing the prayer for grant of bail submitted that allegation of penetrative sexual assault/rape is also available against this petitioner

7. In view of aforesaid factual submissions, as present case was lodged against the petitioner only, when co-accused Md. Azhar refused to solemnize the marriage with informant, coupled with the fact that investigation of this case is already completed, where petitioner is in custody since 10.06.2024, accordingly, the petitioner, above-named, is directed to be released on bail furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the



like amount each to the satisfaction of the learned Exclusive Special Judge, POCSO, Additional District and Sessions Judge-VI, Bhagalpur in connection with POCSO Case No.127 of 2024 arising out of Bhagalpur Mahila P.S. Case No.36 of 2024, subject to the conditions as laid down under Section 437(3) of the Code of Criminal Procedure (for short ‘CrPC’)/under Section 480(3) of the Bhartiya Nagrik Suraksha Sanhita (for short ‘BNSS’).

(Chandra Shekhar Jha, J.)

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