

IN THE HIGH COURT OF JHARKHAND AT RANCHI
B.A. No. 9538 of 2022

Naresh Sao Petitioner
Versus
The State of Jharkhand Opp. Party

CORAM : HON'BLE MR. JUSTICE SUBHASH CHAND

For the Petitioner : Mr. Md. Yasir Arafat, Advocate
For the State : Mr. Sanjay Kumar Srivastava, A.P.P.

04/ 03.11.2022 Heard learned counsel for the applicant and learned A.P.P. for the State.

This bail application has been filed on behalf of the applicant–Naresh Sao with prayer to release on bail in connection with Katkamdag P.S. Case No. 71 of 2022, corresponding to Spl. POCSO Case No.72 of 2022, registered under Section 376 of the Indian Penal Code and 4 of POCSO Act. Subsequently cognizance has been taken under Section 376(3) of the Indian Penal Code and 4,6 of POCSO Act, pending in the court of the Additional Sessions Judge-III-cum-Exclusive Special Court under POCSO Act, Hazaribag.

Learned counsel for the applicant has submitted that the F.I.R. of this case was lodged by the father of victim with these allegations that handicapped minor daughter of the informant 15 years old was sitting at the house. Informant along with his wife had gone out of the house. In the meantime, Naresh Saw called her to his house and raped her. On reaching house ordeal was told by the victim to the informant and her mother. Same was also told to the near relatives and a Panchayat was also called in which accused Naresh Saw confessed his guilt and the daughter of the informant also told the ordeal before Panchayat.

Learned Counsel for the applicant has submitted that, as per medical evidence, victim was major. Her age was determined to be 20 years and she was mentally retarded. The applicant did not rape the daughter of informant. Medical evidence does not support the prosecution story though victim supported the prosecution story in her statement under Section 164 Cr.P.C. and the applicant has been languishing in Jail since 26.04.2022.

Learned A.P.P. appearing on behalf of the State vehemently opposed the contentions made by the learned counsel for the applicant and contended that as per F.I.R. version, victim was 15 years old and handicapped. Though in medical evidence, the age was determined to be 20 years and she is alleged to be mentally retarded yet nothing has come that her mental retardness was as such that she was not in a fit position to give the statement before the Magistrate under Section 164 Cr.P.C. In her statement under Section 164 Cr.P.C. victim has categorically narrated that applicant-accused called

her in his house and he raped her. As per opinion of the Doctor, commission of rape cannot be ruled out.

In view of the submissions made and materials on record, the bail application of the applicant is hereby rejected.

(Subhash Chand, J.)

P.K.S.