

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33003 of 2019

Arising Out of PS. Case No.-101 Year-2018 Thana- MAHILA P.S. District- Araria

Md. Nadir @ Nadir Hussain S/o Master Naseem @ Md. Nasimuddin R/o
village- Dehati (South), P.S.- Palasi, District- Araria

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Vijay Kumar

For the Opposite Party/s : Mr. Pramod Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 20-05-2019 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner seeks bail in connection with Araria
Mahila P.S.Case No. 101 of 2018 registered under Section 376-
D/34 of the Indian Penal Code.

It is submitted by the learned counsel for the
petitioner that there is an inordinate and unexplained delay of
six days in informing the police on the basis of which the FIR
has been registered. The allegation made by the alleged victim
in her written report is against three persons, namely, Md. Nadir,
Md. Arshad and Md. Jamshed. However, in her statement made
under Section 164 of the Code of Criminal Procedure only after
seven days of the FIR, she has not taken name of Md. Arshad. It
is further contended that the alleged victim is habitually



instituting FIR in order to black-mail innocent persons and extort money and that is the reason that after extorting money from Md. Arshad, she has not named him in her statement under Section 164 of the Code of Criminal Procedure.

On the other hand, learned counsel appearing for the State submitted that only because the alleged victim did not name Md. Arshad in her statement made under Section 164 of the Code of Criminal Procedure, as contained in Annexure-2 to the present application, the allegation of rape made by her cannot be ruled out. He has further submitted that all the three accused persons named in the FIR are alleged to have subjected the informant to rape and in such type of cases delay caused in institution of the FIR cannot be the determining factor for the innocence of the persons alleged to have committed rape.

Be that as it may, considering the inordinate and unexplained delay of six days in institution of the FIR, the petitioner, who is reported to be man of clean antecedent, is directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned Sub-Divisional Judicial Magistrate, Araria in connection with Araria Mahila P.S. Case No. 101 of 2018, subject to the conditions :



(a) that the petitioner shall attend court in accordance with the conditions of the bond executed;

(b) that the petitioner shall not commit an offence similar to the offence of the present case; and

(c) that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

(Ashwani Kumar Singh, J)

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