

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 5071 of 2020

Arising out of PS Case No.-416 Year-2019 Thana-Sitamarhi District-Sitamarhi

=====

Md. Saddam, aged about 22 years, male, S/o Md. Istak Shekh, R/o Village-Mehsaul, Ward No. 9, P.S.-Sitamarhi, District-Sitamarhi.

.....Petitioner/s

Versus

The State of Bihar

.....Opposite Party/s

=====

Appearance:

For the Petitioner/s : Mr. Mahendra Thakur, Adv.

For the State : Mr. Pramod Kumar Pandey, APP

=====

CORAM : HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

04/- 14.08.2020

Heard Mr. Mahendra Thakur, learned counsel for the petitioner and Mr. Pramod Kumar Pandey, learned APP for the State.

The petitioner seeks bail in connection with Sitamarhi P.S. Case No. 416 of 2019, dated 01.08.2019, instituted for the



offences under Sections 341, 342, 376(D) and 34 of the Indian Penal Code.

The brother-in-law of the victim girl is stated to have lodged the F.I.R. alleging that the victim was subjected to rape by three accused persons, who have been named by him in the aforesaid report. The petitioner has not been named in the F.I.R. Later, on the confession of one Gulam Rasul, the name of the petitioner also transpired.

Learned counsel for the petitioner has submitted that not naming the petitioner in the F.I.R. makes the case highly doubtful in as much as, the informant was eye-witness to the occurrence and if he has only named three persons, it would not be safe to conclude that the petitioner was also present when the occurrence had taken place. Apart from this, learned counsel for the petitioner has drawn the attention of this Court to three other facts, viz., that the victim girl in her statement recorded under Section 164 Cr.P.C. has also not stated anything specific about the petitioner and her statement is absolutely vague. It has also been pointed out that all the accused persons named in the F.I.R. ar

ne not been named also have been



granted bail by different Benches of this Court. One such order granting bail to one of the accused persons has been annexed with the bail petition.

Learned counsel for the petitioner has also shown to this Court the medical report which may not be of great relevance in a case of this kind.

However, what concerns this Court is that the victim had earlier lodged a case against the informant alleging that she was made to falsely prosecute some of the persons.

Considering all these facts and taking into account the period of custody of the petitioner which is from 04.12.2019, this Court is inclined to grant bail to him.

The petitioner/ Md. Saddam is directed to be released on bail on his furnishing bail bond in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Sitamarhi in connection with Sitamarhi P.S. Case No. 416 of 2019.



However, it is made clear that if the trial proceeds, the petitioner shall participate in the same and his unauthorized absence from the trial proceedings would render his bail liable to be cancelled.

The application stands allowed.

(Ashutosh Kumar, J.)

Praveen-II/Krishna

U	T
---	---

