

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5109 of 2020

Arising Out of PS. Case No.-125 Year-2019 Thana- PAKARIBARAW District- Nawada
=====

SANTOSH KUMAR S/o Madan Singh Resident of village- Simariya, P.S.
Pakribarawan, Distt- Nawada.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar Sharma Mr.Shiva Shankar Sharma
For the Opposite Party/s	:	Mr.Anand Mohan Prasad Mehta

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

6 19-10-2020 Heard Mr. Sanjay Kumar Sharma, learned
counsel for the petitioner and learned APP for the State.

The petitioner seeks bail in connection with POCSO Case No. 26/2019 arising out of Pakribarawan P.S. Case No. 125 of 2019 dated 15.04.2019 instituted for offence under Sections 376, 511 and 34 of the Indian Penal Code and Section 8 of POCSO Act.

It is alleged in the First Information Report that the victim was asked for her mobile phone number by one Sonu Kumar, who forcibly took her to a lonely place and committed rape with her. The petitioner is also alleged to



have been present at the place of occurrence and helped aforesaid Sonu Kumar. The statement of the victim recorded under Section 164 Cr.P.C., which has been annexed along with the petition, clearly indicates that while the victim was coming to her house, three persons including the petitioner were seen standing. Co-accused Sonu gagged her, whereas, the petitioner is alleged to have snatched her mobile phone. One co-accused, namely, Pramod caught hold of her legs and dashed her on the ground. Sonu also is alleged to have threatened her of life. On the hue and cry made by the victim, people of the neighbourhood arrived and seeing this, the accused persons including the petitioner fled away. The mobile phone of the victim is said to have been kept by the co-accused Pramod for about two days. The family members of the co-accused Pramod have also threatened of putting the house of the victim on fire.

Learned counsel for the petitioner has argued that the occurrence took place on 14.04.2019 but the report regarding the same was lodged on 15.04.2019. He further submits that the statement of the victim girl under Section



164 Cr.P.C. has been recorded after three weeks of the lodging of the First Information Report. Apart from this, it has been submitted that near the place of occurrence, people whose houses are situated have not been interrogated by the police. When the victim was asked to get herself medically examined, she refused for the same. Lastly, it has been submitted that the main accused person, namely, Sonu Kumar, who is said to have committed rape with the victim, has been granted bail by a Bench of this Court by order dated 26.08.2019 passed in Cr. Misc. No. 39650 of 2019.

Despite the aforesaid facts, I am not at all inclined to grant bail to the petitioner.

Learned counsel for the petitioner submits that it would create an anomalous situation when one of the accused persons has been granted bail while the other's bail petition has been rejected.

This ground does not weigh with this Court specially in view of the statement of the girl under Section 164 Cr.P.C. Apart from the statement under Section 164 Cr.P.C., all other grounds, which have been urged by the



petitioner do not convince this Court for grant of bail to the petitioner.

The petitioner is stated to be in custody since 13.11.2019.

The prayer for bail is rejected.

However, the Trial Court is directed to expedite the trial of the petitioner. In case, there is no substantial progress in the trial within six months, the petitioner would be at liberty to approach the Trial Court for grant of bail and in that event the Trial Court would be required to state the reasons for the tardy pace of the Trial.

(Ashutosh Kumar, J)

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