

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 23242 of 2020

Arising Out of PS. Case No.-38 Year-2019 Thana- SINGHIYA District- Samastipur

Rishikesh Kumar Singh @ Bittu Singh, aged about 25 years Son of Dilip Kumar Singh Resident of Village - Hardiya, P.S.- Singhia, District-Samastipur
... Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr. N K Agrawal, Senior Advocate Mr. Amresh Kumar Sinha, Advocate
For the State	:	Mr. Ajit Kumar, Addl Public Prosecutor
For the informant	:	Mr. Bijay B. Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 02-11-2020 Heard learned counsel for the petitioner, the informant and the State through Video Conferencing.

The petitioner seeks bail in connection with Singhiya P.S. Case No. 38 of 2019 registered for the offence punishable under Sections 120(B), 201, 302, 376A and 376D of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Assault Act, 2012.

The prosecution's case in brief is that on 05.04.2019 at 9 A.M., petitioner Rishikesh Kumar Singh and co-accused Roshan Kumar Singh and Rajbardhan Singh @ Monu Singh, on pistol point, took the informant to bamboo clump and all of them committed rape and killed her by throttling. It is further alleged that the accused persons also burnt the victim.



Learned counsel for the petitioner submits that the petitioner has falsely been implicated in this case as from perusal of the FIR, it is evident that the informant is not the eye witness of the occurrence. Even for the occurrence of 05.04.2019, the written report has been submitted on 06.04.2019 when the dead body was recovered, without any explanation of delay. Informant has claimed that his wife Rinku Devi and mother Urmila Devi have seen the alleged occurrence. However, statements of these two witnesses, contained in paragraphs 12 and 23 of the case diary respectively, reveal that they had not seen the alleged occurrence. They have stated that it is only when smoke started coming out next day from the bamboo clump then they found the victim. These witnesses have only stated that the petitioner and other co-accused persons were seen wandering near the place of occurrence on the relevant day. Thus, save and except suspicion, no other incriminating material has been collected during investigation to connect the petitioner with the alleged offence. It is also the case of the petitioner that during postmortem examination, no spermatozoa was found on the body of the victim and cause of death has been ascertained as asphyxia caused by burn injuries. It is stated in paragraph-3 of the bail petition that the petitioner has got clean antecedent.



Petitioner is in custody since 8th April, 2019 though similarly situated co-accused Rajbardhan Singh @ Monu Singh has already been allowed bail by a co-ordinate bench of this Court vide order dated 18.6.2020, passed in Cr.Mis.No. 70105/2019 (Annexure 2).

Learned counsel for the State as well as learned counsel for the informant oppose the prayer for bail and submit that the petitioner and other accused persons are named in the FIR with allegation that they committed rape on the victim, throttled her to death and finally burnt the corpse. It is also submitted that charges have also been framed against the accused persons in the case.

In the facts and circumstances of the case as well as considering the fact that though the informant claimed that his wife and mother have seen the occurrence, these witnesses have not supported the prosecution version in their statements recorded in the case diary in course of investigation also the fact that the petitioner does not have any criminal antecedent, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.10,000/- with two sureties of the like amount each to the satisfaction of the learned Additional District & Sessions Judge-I, Samastipur in connection with Singhia P.S.Case No.38



of 2019 on the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be cancelled by the Court below.

(2) If the petitioner tampers with the evidence or the witnesses, in that case the prosecution will be at liberty to move for cancellation of bail.

Let the trial be expedited.

(Prabhat Kumar Singh, J)

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