

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11330 of 2021

Arising Out of PS. Case No.-91 Year-2020 Thana- MAHILA P.S. District- Nalanda

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Mukesh Kumar Son of Mahesh Sao Resident of Village- Machariyawan, P.S.-
Deviawan, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Gyanendra Kumar Shukla, Adv.

For the Opposite Party/s : Mr.Shantanu Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 16-08-2021 In view of the sudden resurgence of Covid-19 infection, there is limited functioning of the High Court and, therefore, the matter has been listed today for consideration through virtual mode.

Learned counsel for the petitioner is expected to honour his undertaking given in the instant case for depositing the requisite court fee and to remove the defects as pointed out by office when called upon to do so by the office.

Heard learned counsel for the petitioner and learned A.P.P. for the State.

The petitioner seeks bail in Nalanda Mahila P.S. Case No.91 of 2020 instituted for the offence under Sections 376 and 34 of the Indian Penal Code.

The informant alleged that she was negotiating a land deal with co-accused Chhotu Kumar. She had accompanied



Chhotu Kumar and this petitioner on a motorcycle and had gone to the house of this petitioner. She has alleged that at the petitioner's house throughout night she was ravished by the petitioner and co-accused Chhotu Kumar.

Learned counsel for the petitioner submits that in course of land deal, the petitioner has falsely been implicated. Even as per prosecution case, the land deal was being negotiated with co-accused Chhotu Kumar. The allegation regarding rape committed by two persons is not corroborated by the injury report wherein no sign of external or internal injury has been found on the victim. The petitioner has no criminal antecedent and has become a victim of the circumstance. The bona-fide of the petitioner would be evident from the fact that he has been arrested from his home same day and, therefore, the entire prosecution case that rape was committed in the petitioner's house in the night appears to be highly improbable. The petitioner is in custody since 31.07.2020.

This Court called for a report whether the victim has made statement under Section 164 Cr.P.C. The court below has forwarded a report that in spite of several information given to the victim, till the date of report i.e. 07.08.2021 she has chosen not even to give her statement under Section 164 of the Cr.P.C.



The learned APP has opposed the prayer for bail submitting that the petitioner is an accused of committing rape.

Considering the rival submissions as also the facts and circumstances of the case, this Court for the purposes of grant of bail is inclined to accept the submissions advanced by the petitioner's counsel. Prayer for bail of the petitioner is allowed. Let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/-(Ten thousand) with two sureties of the like amount each to the satisfaction of the learned S.D.J.M., Nalanda in connection with Mahila P.S. Case No.91 of 2020, subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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