

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3344 of 2022

Arising Out of PS. Case No.-542 Year-2021 Thana- SARAIYA District- Muzaffarpur

ABDUL HAFIZ @ HARIZOOL MIYAN @ MD. HAFIJUL MIYA S/o Late
Elahi Miyan R/o village- Raksha, P.S.- Karja, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ravi Nandan, Advocate

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

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 26-05-2022 Heard learned counsel for the petitioner and learned A.P.P.
for the State.

The petitioner seeks bail in a case registered for the offences punishable under Section 376 of the Indian Penal Code.

Learned counsel for the petitioner submits that the petitioner is in custody since 02.08.2021, has no criminal antecedent and charge-sheet has been submitted in the case.

The informant alleges that on 03.07.2021 petitioner came to the house of the informant and disclosed that the informant and her husband both of them are in crisis situation and he is a *Tantrik* and thus can help them in getting out of the situation, it is further alleged that on the pretext of performing *Tantricism* the petitioner inappropriately touched the private parts of the informant and further raped her in semi conscious states.

Learned counsel for the petitioner submits that petitioner



has falsely been implicated in the present case. The informant in her statement under Section 164 Cr.P.C. gave a total go by to the allegation as alleged in the FIR. It is further submitted that when the bail application of the petitioner was taken by the learned court below the informant appeared through her lawyer and filed an application alleging out of fear created by the relative of the petitioner an incorrect statement under Section 164 of the Cr.P.C. was made, it is further submitted that it absolutely does not stand to the reason that merely on the affidavit filed by the informant in the learned court below, the court below rejected the bail application of the petitioner. It is further submitted if what has been alleged by the informant in her affidavit before the learned court below is true then, why, the informant did not institute an FIR with regard to the said allegations. It is thus submitted, it appears that the informant was trying to extort the petitioner and when he refused, she by way of after thought submitted the affidavit in the learned court below. He further submits that though he does not have a copy of the statement of the informant recorded under Section 164 of the Cr.P.C. but on the basis of instruction, he is submitting that the informant in her statement under Section 164 of the Cr.P.C. apart from denying the allegation as alleged in the FIR also refused for medical examination.

Learned counsel for the petitioner further submits that even the learned court below in the impugned order has recorded that the informant in her statement recorded under Section 164 of the



Cr.P.C. has not supported the prosecution case.

Learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the fact that the petitioner is in custody, charge-sheet has been submitted in the case and is a person with clean antecedent and taking into consideration the submission made by learned counsel for the petitioner, let the petitioner above named 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 court below where the case is pending/successor court in connection with Saraiya P.S. Case No. 542 of 2021.

(Satyavrat Verma, J)

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