

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5156 of 2022

Arising Out of PS. Case No.-50 Year-2021 Thana- FATEHPUR District- Gaya

Chhotu Kumar Son of Jumman @ Kamruddin Miyan Resident of Village-
Dumarichatti, Police Station- Fatehpur, District- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gajendra Kumar Singh, Advocate
For the State : Ms. Usha Kumari 1, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 20-09-2022 Heard learned counsel appearing on behalf of the
petitioner and learned APP appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with Fatehpur
P.S. Case No. 50 of 2021 registered for the offence under
Sections 354(D) and 376(d) of the Indian Penal Code, Section 6
of the POCSO Act and Section 3(i)(r)(s)(w), 3(2)(va) and 3(2)v
of the SC/ST (P.O.A.) Act, 2015.

The accused/petitioner is named in the F.I.R. and is in
custody since 23.02.2021.

The allegation against the petitioner is to commit
rape/penetrative sexual assault upon the informant/victim,
alongwith other co-accused person.



Learned counsel appearing on behalf of the petitioner submitted that petitioner has been falsely implicated in this case for local dispute and differences. It is also submitted that statement of the victim is appearing contradictory, as recorded u/s 161 *qua* 164 of the Cr.P.C. It is also submitted that medical examination report of victim is negating the allegation of rape as no injury was found. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and, moreover, investigation in this case is complete for which chargesheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State, while opposing the prayer of bail, submitted that the victim, specifically, alleged this petitioner to commit rape/penetrative sexual assault upon her. It is further submitted that non-finding of injury, while medical examination cannot lead to a conclusion, *ipso facto*, that rape was not committed upon, as rape is a legal finding not a medical one.

In view of the facts and circumstances, as mentioned above, as victim, specifically, alleged this petitioner to commit rape/penetrative sexual assault upon her, this Court is not inclined to grant bail to the petitioner, at present.



Accordingy, the prayer of bail of the petitioner is rejected herewith.

However, learned Trial Court is directed to conclude the trial within the time period as prescribed u/s 35(2) of the POCSO Act, 2012, by taking the matter on board, on day to day basis.

Senior Superintendent of Police, Gaya is directed to produce the chargesheeted witnesses, as and when directed by the Trial Court, so as to conclude the trial within the time period as prescribed under the law, as directed above.

(Chandra Shekhar Jha, J)

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