

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7283 of 2022

Arising Out of PS. Case No.-15 Year-2021 Thana- ARWAL MAHILA District- Jehanabad

UPENDRA KUMAR S/O SRI GULABCHAND CHAUDHARY, R/V-
SAMANPURA BADDHO, P.O.- EBRAHIMPUR, P.S.- KINJAR, DISTT.-
ARWAL

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Kumar Sinha, Advocate
For the Opposite Party/s : Mr. Uma Shankar Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 11-10-2022 Heard learned counsel appearing on behalf of the
petitioner and learned counsel 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 Mahila
P.S. Case No. 45 of 2021 registered for the offence under
Sections 376(D)(A) of the Indian Penal Code and Section 4 of
POCSO Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 04.07.2021.

The allegation against the petitioner is to commit rape
upon informant/victim, aged about 14 years, along with other
co-accused persons.



Learned counsel appearing on behalf of the petitioner submitted that petitioner has been falsely implicated in the present case, due to local disputes and differences. It is also submitted that the present FIR was lodged after two days without any just explanation for said delay. It is also submitted that the report of Forensic Science Laboratory, as regard to “white material found on '*Salwar*' of the victim” negate the allegation of rape, as no spermatozoa was found. It is also submitted that spermatozoa was also not noticed during medical examination of victim and as such, allegation of rape does not get its strength. While concluding the argument, it is submitted that investigation of this case has been completed, for which, charge-sheet has already been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail, submitted that victim specifically alleged this petitioner to commit rape upon her along with other co-accused persons through her statement, as recorded under Section 164 of the Cr.P.C. It is further pointed out that on medical examination, fresh marks of tooth-bite on left cheek of the victim was also noticed. Learned APP further submitted that as per medical report, marks of scratch were found, which clearly shows the



physical resistance from victim side.

In view of the submissions, as made above, as victim specifically alleged this petitioner to commit rape upon her along with other co-accused persons through her statement recorded under Section 164 of the Cr.P.C., which is in full corroboration with medical report, this Court is not inclined to grant bail to the petitioner, at present.

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

Trial Court/Special Court is directed to proceed with the matter, by taking it on board, on day-to-day basis, so as trial may conclude within specified time as prescribed under Section 35 (2) of the POCSO Act, 2012.

Superintendent of Police, Arwal, is directed to produced the charge-sheeted witnesses, as and when directed by the learned Trial Court/Special Court, for expeditious disposal of trial, within specified time, as provided under law, as mentioned above.

(Chandra Shekhar Jha, J)

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