

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7045 of 2022

Arising Out of PS. Case No.-953 Year-2021 Thana- SITAMARHI District- Sitamarhi

MD. ASGAR Son of Md. Mahfuz Resident of Village - Boha Tola,
Khajurbanni, P.S. Sitamarhi, District - Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 17970 of 2022

Arising Out of PS. Case No.-953 Year-2021 Thana- SITAMARHI District- Sitamarhi

MD. ASRAF @ BDAL @ MD. BADAL Son of Md. Mahfuz Resident of
Mohalla - Boha Tola, Khajurbanni, P.S.- Sitamarhi, District - Sitamarhi,
Presently residing at Islampur Road, Mirchaipatti, P.S.- Sitamarhi, District -
Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 18975 of 2022

Arising Out of PS. Case No.-953 Year-2021 Thana- SITAMARHI District- Sitamarhi

CHANDANI KHATOON Wife of Rajesh Kumar Daughter of Md. Mahfooz,
Resident of village - Boha Tola, Khajurbanni, P.S.- Sitamarhi, District -
Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 7045 of 2022)

For the Petitioner/s : Mr.Pushpendra Kumar Singh, Advocate

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

(In CRIMINAL MISCELLANEOUS No. 17970 of 2022)

For the Petitioner/s : Mr.N.K. Agrawal, Sr. Advocate

Mr.Pushpendra Kumar Singh, Advocate

Ms.Divya Bharti, Advocate

For the Opposite Party/s : Mr.Md. Fahimuddin, APP



(In CRIMINAL MISCELLANEOUS No. 18975 of 2022)

For the Petitioner/s : Mr.Pushpendra Kumar Singh, Advocate

For the Opposite Party/s : Mr.Md. Shakir Ahmad, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 16-11-2022 Heard learned senior 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 Sitamarhi
P.S. Case No. 953 of 2021 registered for the offence under
Sections 363, 366(A), 370, 370(A), 372, 373, 376, 323, 342,
326(A), 326, 504, 506 and 34 of the Indian Penal Code.,
Sections 3, 4, 5 and 6 of the Immoral Traffic Act, under Sections
4 and 6 of the POCSO Act and under Sections 75 and 79 of the
Juvenile Justice Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 27.11.2021.

The allegation against the petitioner is to kidnap the
victim/informant, for the purpose of illicit intercourse and also
sell her for the purpose of prostitution and to commit rape upon
her, along with other co-accused persons.

Learned senior counsel appearing on behalf of the
petitioner submitted that thrust of allegation is against co-
accused, namely, Dharmendra Kumar. It is submitted that



victim/informant was major at the time of occurrence and she willfully adopted immoral practice against considerations of Rs. 50,000/-. It is further submitted that this fact may be gathered as victim got opportunity on several occasions to run away but she remains continue with the co-accused persons following immoral practice. While concluding the argument, it is submitted that investigation of this case is complete, for which, charge-sheet has 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 stated in her statement as recorded under Section 164 of the Cr.P.C. that how she was sold for the purpose of prostitution by the petitioner and whenever she refused to attend customer she was brutally assaulted by hot ladle (**Kalchhul**). It is further submitted that even the mark of hot ladle was also noticed by concerned learned Magistrate, while recording statement of victim under Section 164 of the Cr.P.C. and same was also found during her medical examination with clear opinion that probability of rape cannot be ruled out as victim found bleeding, where vulva was swollen and bruised.

In view of the facts and circumstances as mentioned



above, as there is specific allegation against this petitioner to push the victim/informant in an immoral practices of prostitution after purchasing her, as supported through her statement, as recorded, under Section 164 of the Cr.P.C., in the background of the medical report of the victim which clearly suggest that she was subjected for rape, this Court is not inclined to grant privilege of bail to the petitioner, at present.

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

The learned Trial Court is directed to conclude the trial, preferably, within a period of 06 (six) months from the date of receipt of this order, by taking this matter on board, on day-to-day basis, if required.

The Superintendent of Police, Sitamarhi, is directed to produce the charge-sheeted witnesses, as and when directed by the learned Trial Court, so as to conclude the trial within aforesaid time period, as directed above.

IN CR. MISC. No. 17970 of 2022

Heard learned senior 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 Sitamarhi P.S. Case No. 953 of 2021 registered for the offence under Sections 363, 366(A), 370, 370(A), 372, 373, 376, 323, 342, 326(A), 326, 504, 506 and 34 of the Indian Penal Code., Sections 3, 4, 5 and 6 of the Immoral Traffic Act, under Sections 4 and 6 of the POCSO Act and under Sections 75 and 79 of the Juvenile Justice Act.

The accused/petitioner is named in the F.I.R. and is in custody since 27.11.2021.

The allegation against the petitioner is to kidnap the victim/informant, for the purpose of illicit intercourse and also sell her for the purpose of prostitution and to commit rape upon her, along with other co-accused persons.

Learned senior counsel appearing on behalf of the petitioner submitted that thrust of allegation is against co-accused, namely, Dharmendra Kumar. It is submitted that victim/informant was major at the time of occurrence and she willfully adopted immoral practice against considerations of Rs. 50,000/-. It is further submitted that this fact may be gathered as victim got opportunity on several occasions to run away but she remains continue with the co-accused persons following immoral practice. While concluding the argument, it is



submitted that investigation of this case is complete, for which, charge-sheet has 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 stated in her statement as recorded under Section 164 of the Cr.P.C. that how she was sold for the purpose of prostitution by the petitioner and whenever she refused to attend customer she was brutally assaulted by hot ladle (**Kalchhul**). It is further submitted that even the mark of hot ladle was also noticed by concerned learned Magistrate, while recording statement of victim under Section 164 of the Cr.P.C. and same was also found during her medical examination with clear opinion that probability of rape cannot be ruled out as victim found bleeding, where vulva was swollen and bruised.

In view of the facts and circumstances as mentioned above, as there is specific allegation against this petitioner to push the victim/informant in an immoral practices of prostitution after purchasing her, as supported through her statement, as recorded, under Section 164 of the Cr.P.C., in the background of the medical report of the victim which clearly suggest that she was subjected for rape, this Court is not



inclined to grant privilege of bail to the petitioner, at present.

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

The learned Trial Court is directed to conclude the trial, preferably, within a period of 06 (six) months from the date of receipt of this order, by taking this matter on board, on day-to-day basis, if required.

The Superintendent of Police, Sitamarhi, is directed to produce the charge-sheeted witnesses, as and when directed by the learned Trial Court, so as to conclude the trial within aforesaid time period, as directed above.

IN CR. MISC. No. 18975 of 2022

Heard learned senior 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 Sitamarhi P.S. Case No. 953 of 2021 registered for the offence under Sections 363, 366(A), 370, 370(A), 372, 373, 376, 323, 342, 326(A), 326, 504, 506 and 34 of the Indian Penal Code., Sections 3, 4, 5 and 6 of the Immoral Traffic Act, under Sections 4 and 6 of the POCSO Act and under Sections 75 and 79 of the



Juvenile Justice Act.

The accused/petitioner is named in the F.I.R. and is in custody since 27.11.2021.

The allegation against the petitioner is to kidnap the victim/informant, for the purpose of illicit intercourse and also sell her for the purpose of prostitution and to commit rape upon her, along with other co-accused persons.

Learned senior counsel appearing on behalf of the petitioner submitted that thrust of allegation is against co-accused, namely, Dharmendra Kumar. It is submitted that victim/informant was major at the time of occurrence and she willfully adopted immoral practice against considerations of Rs. 50,000/-. It is further submitted that this fact may be gathered as victim got opportunity on several occasions to run away but she remains continue with the co-accused persons following immoral practice. While concluding the argument, it is submitted that petitioner is a lady of clean antecedent and, moreover, investigation of this case is complete, for which, charge-sheet has 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 stated in her statement as



recorded under Section 164 of the Cr.P.C. that how she was sold for the purpose of prostitution by the petitioner and whenever she refused to attend customer she was brutally assaulted by hot ladle (**Kalchhul**). It is further submitted that even the mark of hot ladle was also noticed by concerned learned Magistrate, while recording statement of victim under Section 164 of the Cr.P.C. and same was also found during her medical examination with clear opinion that probability of rape cannot be ruled out as victim found bleeding, where vulva was swollen and bruised.

In view of the facts and circumstances as mentioned above, as there is specific allegation against this petitioner to push the victim/informant in an immoral practices of prostitution after purchasing her, as supported through her statement, as recorded, under Section 164 of the Cr.P.C., in the background of the medical report of the victim which clearly suggest that she was subjected for rape, this Court is not inclined to grant privilege of bail to the petitioner, at present.

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

The learned Trial Court is directed to conclude the trial, preferably, within a period of 06 (six) months from the date



of receipt of this order, by taking this matter on board, on day-to-day basis, if required.

The Superintendent of Police, Sitamarhi, is directed to produce the charge-sheeted witnesses, as and when directed by the learned Trial Court, so as to conclude the trial within aforesaid time period, as directed above.

(Chandra Shekhar Jha, J)

R.S.Sen/-

U		T	
---	--	---	--

