

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7362 of 2022

Arising Out of PS. Case No.-49 Year-2021 Thana- MAHILA P.S. District- Siwan

Prakash Kumar, S/o Lalbabu Singh, Resident of Village- Abhui, P.S. Daronda,
District- Siwan, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Venkatesh Kirti, Advocate

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 05-07-2022 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Venkatesh Kirti, learned counsel for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Siwan Mahila P.S. Case No. 49 of 2021 registered for the offences punishable under Section 376(D)/34 of the Indian Penal Code and Sections 4/6 of the POCSO Act.

As per prosecution case, it is alleged that on 14.10.2021 while the informant was returning from her maternal uncle house, in the meanwhile the petitioner along with another co-accused persons apprehended her and took her to an isolated place and thereafter both of them committed rape upon her. It is



further alleged that she was also assaulted and beaten by the accused persons.

It is submitted by the learned counsel appearing on behalf of the petitioner that the victim girl was examined by the Medical Board and her age has been assessed as about 20 years and moreover the Doctor has opined that no injury over her private part or any other injury over the body has been found. Learned counsel for the petitioner has also drawn the attention of this Court towards Annexure-P/3, which is the admit card issued in the name of the petitioner, wherein the date of birth of the victim has been shown as 12.10.2003 and as such on the alleged date of occurrence she was a major one. It is next submitted that after investigation, the trial has commenced and the victim/informant has been examined by the learned trial court wherein she denied the allegation of rape and has categorically deposed that the petitioner has not committed any offence against her, as alleged in the F.I.R. She also stated that the statement recorded under Section 164 of the Cr.P.C. was on the dictate of the lady constable. The petitioner is in custody since 20.10.2021 having fair antecedent.

On the other hand, learned APP for the State opposes the bail application and submits that there is specific allegation



against this petitioner that he has committed rape upon the victim. However, learned counsel for the State is unable to confront the factual position that the victim in her deposition has not supported the prosecution case.

Having considered the submissions made on behalf of the parties and taking into consideration the deposition of the victim wherein she has not supported the prosecution case, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned S.D.J.M., Siwan in connection with Siwan Mahila P.S. Case No. 49 of 2021 subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be



cancelled.

(Harish Kumar, J)

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