

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7887 of 2022

Arising Out of PS. Case No.-316 Year-2021 Thana- ATRI District- Gaya

Nitish Kumar S/O Maheshwar Yadav R/o village- Alam Bigha, P.S.- Atri,
District- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Manish Kumar No2, Advocate
For the State	:	Mr.Ramchandra Sahni, APP
For the Informant	:	Mr.Vishwa Ranjan Choudhary, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 13-12-2022 Heard learned counsel for the petitioner and learned
APP for the State as well as learned counsel for the informant.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks.

In the present case, the petitioner seeks bail in
connection with Atri P.S. Case No. 316 of 2021 registered for the
alleged offences under Section 376 of the Indian Penal Code.

As per prosecution case, informant gave a written
report to the police that while she had been sleeping in her room
with her two children, the petitioner entered into her room and
raped her and prepared a video of his act. On shout being made,
the petitioner left the room and threatened her that he would
make the video viral.

Learned counsel for the petitioner submits that the
petitioner is innocent and has been falsely implicated in this case



due to partition dispute. The petitioner is the nephew of the husband of the informant and the father of the petitioner and the husband of the informant belong to the same family tree and there is dispute over boundary of the land on which informant's family has already constructed the houses whereas the father of the petitioner has started the construction recently. Learned counsel further submits that prosecution story is not believable that while the informant was sleeping in her house with her two children and her other family members were also present how come the petitioner entered into the house and raped her. The victim girl recorded her statement under Section 164 Cr.P.C. wherein she has stated that when she went to police station to lodge the report the petitioner was also present there and therefore she returned and thereafter she came again on the next day. This does not appear to be believable. The medical examination of the victim shows no recent sign of sexual intercourse and also no HVS and spermatozoa was found. The witnesses examined during the examination are family members of the informant and they have stated what has been told to them by the informant. The petitioner is in custody since 20.09.2021 and charge sheet has been submitted. The petitioner has got no criminal antecedent.

Learned APP as well as learned counsel appearing on



behalf of the informant vehemently oppose the submissions made on behalf of the petitioner. Learned counsel for the informant submits that the petitioner is not related to the informant and is merely a co-villager and nothing has come on record to show any previous dispute between the parties. Learned counsel further submits that the informant in the FIR as well as in her statement recorded under Section 164 has specifically named the petitioner who trespassed into her house and committed rape with her.

Perused the records.

Having regard to the rival submission and considering the fact that there is specific allegation against the petitioner for committing rape, I am not inclined to enlarge the petitioner on bail.

Hence, the prayer for bail is rejected.

However, the learned trial court is directed to expedite the trial and conclude the same preferably within a period of nine months.

(Arun Kumar Jha, J)

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