

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19752 of 2021

Arising Out of PS. Case No.-557 Year-2019 Thana- JAKKANPUR District- Patna

MUNNA MALAKAR Son of Late Sohan Mali Resident of Village - Kumhar Toli, P.O. - Manpur, P.S.- Buniyadgang (Muffasil), Dist. - Gaya, at Present Resident of Mohalla - Maruti Nagar, Postal park, P.S. - Jakkanpur, Dist. - Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Awadhendra Kumar, Adv.

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 03-01-2022 Let the defects, as pointed out by the office, be removed within four weeks of starting of Court proceeding in physical mode in normal course.

Heard learned counsel for the petitioner and the learned A.P.P. for the State.

The petitioner seeks bail in connection with Jakkanpur P.S. Case No. 557 of 2019 (G.R. No. 7117 of 2019) registered for the offence under Sections 376, 328 and 506 of the Indian Penal Code.

The petitioner is said to have established forceful physical relation with the informant, who is said to be sister-in-law of the petitioner.

Learned counsel appearing for the petitioner submits that the petitioner, who is of clean antecedent, is innocent and



has falsely been implicated in this case. In fact, the alleged occurrence took place on 14.08.2019 whereas the instant F.I.R. has been lodged on 25.08.2019 after lapse of almost twelve days without explaining the plausible delay which creates doubt over the prosecution version. No occurrence as alleged in the F.I.R. has ever taken place. Moreover, the victim in her statement recorded under Section 164 Cr.PC. has not disclosed that the petitioner has committed rape upon her, therefore, the prosecution version does not corroborate with the statement of the victim recorded under Section 164 Cr.PC. Not only that, the doctor, who has medically examined the victim, does not find any external or internal injury on the person of the victim. Therefore, no case under Section 376 of the Indian Penal Code is made out against the petitioner. The petitioner is rotting in custody since 14.12.2020.

Learned A.P.P. for the State has opposed the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, let the, above named, petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-1st, Patna in connection with Jakkanpur P.S. Case No. 557 of 2019/ G.R. No. 7117 of 2019 with the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be



properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled by the Court below.

(2) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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