

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9581 of 2022

Arising Out of PS. Case No.-199 Year-2019 Thana- BHORE District- Gopalganj

Rakesh Kumar Ram Son of Ramanand Ram Resident of Village - Luhusi,
Harijan Tola, P.s.- Bhorey, Distt.- Gopalganj, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Indrajeet Bhushan, Advocate

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 15-11-2022 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 Bhorey
P.S. Case No. 199 of 2019 registered for the offence under
Sections 376 and 34 of the Indian Penal Code and under Section
4, 6, 8 and 10 POCSO Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 06.01.2022.

The allegation against the petitioner is to commit
rape/penetrative sexual assault upon sister of the informant,
along with other co-accused persons, while she went to nearby
field to attend call of nature.



Learned counsel appearing on behalf of the petitioner submitted that there is a material contradiction between the statement of victim as recorded under Section 161 qua statement recorded under Section 164 of the Cr.P.C. It is submitted that by taking complete “U” turn the allegation of rape was negated, while recording the statement under Section 164 of the Cr.P.C. against co-accused namely, Rahul, and by taking note of the fact said co-accused Rahul, against whom the allegation of rape was raised through FIR, was granted bail by one of the learned Co-ordinate Bench of this Court through Cr. Misc. No. 54628 of 2019 vide order dated 25.10.2019. It is further submitted that as per statement of victim, as recorded under Section 164 of the Cr.P.C., there is no allegation regarding rape/penetrative sexual assault against this petitioner, where allegation is limited that of video recording, while victim was partly naked. It is also submitted that as per the medical report victim is above 18 years. It is also submitted that the medical report is also not suggesting that rape/penetrative sexual assault was committed upon victim, as alleged.

Learned APP appearing on behalf of the State opposes the prayer of bail.

Considering the facts and circumstances as mentioned



above, and by taking note of the contradictions as available with the statement of victim as recorded under Section 161 qua under Section 164 of the Cr.P.C. and further as allegation of rape/penetrative sexual assault was not raised against this petitioner through statement of victim as recorded under Section 164 of the Cr.P.C. coupled with the fact that charge-sheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Bhorey P.S. Case No. 199 of 2019 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Vith Additional Sessions Judge-cum-Special Judge, POCSO, Gopalganj/concerned court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

R.S.Sen/-

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