

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10983 of 2022

Arising Out of PS. Case No.-50 Year-2021 Thana- FATEHPUR District- Gaya

=====

Rohit Kumar @ Rohit Goswami Son of Surendar Goswami @ Sulendra @
Karu Goaswami Resident of Village - Sitalpur Rupin, P.S.- Fatehpur, Distt.-
Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Arvind Kumar Singh, Advocate
For the State : Ms. Usha Kumari 1, APP

=====

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 17-08-2022 Heard learned 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 Fatehpur
P.S. Case No. 50 of 2021 registered for the offence under
Sections 354(d) and 376(d) of the Indian Penal Code, Section 6
of the Protection of Children from Sexual Offences Act and
Sections 3(i)(r)(s)(w), 3(2)(va) and 3(2)v of the Scheduled
Castes and Scheduled Tribes (Prevention of Atrocities) Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 23.02.2021.

The allegation against the petitioner is to commit



rape/penetrative sexual assault upon herself and upon her friend.

Learned counsel appearing on behalf of the petitioner submitted that the statement of the victim as recorded u/s 161 of the Cr.P.C. appears contradictory by denying the allegation of rape, while recording her statement u/s 164 of the Cr.P.C. It is submitted that it is not a case of gang rape, rather it is a case of individual friendship/love affairs, where petitioner and victim were known to each other prior to this occurrence. It is also submitted that as video has been made viral by some other persons, the present false case has been lodged implicating this petitioner. It is further submitted that, as per medical report, the victim appears to be major in the background, as no age of the victim/informant is mentioned in the F.I.R. It is also submitted that medical report denying the allegation of penetrative sexual assault, which is in corroboration with the statement of victim recorded u/s 164 of the Cr.P.C. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and, moreover, investigation in this case is complete for which chargesheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State, while opposing the prayer of bail, fairly conceded that victim denied



the allegation of rape/penetrative sexual assault against this petitioner through her statement recorded u/s 164 of the Cr.P.C.

In view of the facts and circumstances, as mentioned above, as the statement of victim recorded u/s 164 of the Cr.P.C. denied the allegation of rape against this petitioner, which is further in corroboration with the medical report 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 Fatehpur P.S. Case No. 50 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, POCSO-cum-Additional District Judge-VI, Gaya/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

Ankit/-

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

