

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13322 of 2022

Arising Out of PS. Case No.-53 Year-2021 Thana- MAHILA P.S. District- Samastipur

GAUTAM KUMAR Son of Arjun Mahto Resident of village - Rahua, Garai
Tola, P.S.- Rosera, District - Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Mishra, Advocate.

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 18-10-2022 Learned counsel for the petitioner is permitted to
remove defect(s), as pointed out by the office, if any, within a
period of four weeks from today.

Heard Mr. Ashok Kumar Mishra, learned counsel for
the petitioner as well as learned Additional Public Prosecutor for
the State.

The application for grant of bail to the petitioner,
above named, who has been made accused and put behind the
bar in connection with Samastipur (Mahila) P. S. Case No. 53 of
2021 registered for the offences punishable under Sections 376,
323, 341, 504 of the Indian Penal Code and Sections 4/6 of the
of the Protection of Children from Sexual Offences Act.

The prosecution case is based on a written report
filed by the informant alleging therein that eight months ago, in



the month of “Aughan” (October-November, 2020), while she was alone at her house, the petitioner came there and forcibly raped her. It is also alleged that the informant and her mother informed this incidence to the Panchyat but they did not hold panchayati. On 23.07.2021, the mother of the informant went to the house of the petitioner and requested to keep her in his house but they refused to accept her and abused and assaulted her.

Learned counsel appearing on behalf of the petitioner submitted that from the tenor of the F.I.R., it would be evident that the alleged occurrence took place in the month of “Aughan” (October-November, 2020), however, the present F.I.R. has been instituted on 28.07.2021 almost after a delay of 9-10 months and the reason for delay has been assigned of non-holding of Panchayati. It is also submitted that the explanation for the delay as alleged by the informant has not been corroborated by the statement of any of the witnesses, who have been examined during the course of investigation. It is further submitted that the present case has been instituted only with a view to put pressure upon the petitioner to solemnize the marriage with the victim/informant. It is next submitted that the informant used to reside in Rajasthan where also she has



reported to file a similar case against one Ramakant Sahni, which was, later on, withdrawn. It is lastly submitted that the petitioner has absolutely clean antecedent and he is in custody since 03.08.2021 and moreover, after completion of the investigation, the charge sheet has been submitted and the petitioner is ready to give undertaking that he will fully cooperate in the trial.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that the statement of the victim was recorded under Section 164 Cr.P.C. wherein she has specifically alleged against the petitioner that she was subjected to rape at the hands of the petitioner. It is also submitted that the victim was examined by the doctor and her age has been assessed between 15-16 years and she was found pregnant.

Regard being had to the submissions made on behalf of the parties and taking into account the materials available on record especially the delay in lodging of the F.I.R. and the fact that during the course of investigation none of the witnesses have supported the case of prosecution with regard to the Panchayati, apart from the period of custody and the charges have also been framed, let the petitioner, above named, 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 Additional Sessions Judge-VI-cum-Special Court (POCSO), Samastipur in connection with Samastipur (Mahila) P. S. Case No. 53 of 2021, subject to the condition that one of the bailors will be the close relative 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)

shakir/-

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

