

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.19661 of 2022

Arising Out of PS. Case No.-67 Year-2020 Thana- MAHILA P.S. District- Samastipur

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NIVAS KUMAR @ NIWAS KUMAR Son of Rajendra Mahto Resident of
Village - Simri, P.S.- Vidyapati Nagar, District - Samastipur - 848503.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

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

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

2 12-07-2022 Heard learned counsel for the parties.

Petitioner seeks bail in a case registered for the offence punishable under Sections 147, 148, 149, 364, 511, 376(D)(a) of the Indian Penal Code, Section 27 of the Arms Act and Section 4, 6, 8, 10, 12, 16 and 18 of the POCSO Act.

Complaint was filed by informant on 18.06.2020 in the POCSO Court, Samastipur against all accused including the petitioner alleging therein that on 19.05.2020 at around 8:00 pm, all the accused named in the FIR including the petitioner variously armed came to the house of the complainant namely Laxmi Kumari on one four wheeler and two motorcycles and



committed rape upon her.

It is further alleged that on 10.04.2020 also, accused persons had committed rape upon her, however, she was forcibly prevented from instituting any complaint.

Learned counsel for the petitioner submits that he is innocent and has been falsely implicated in this case due to previous animosity and land dispute. FIR was registered on the basis of complaint filed by complainant in the court of Special Judge, POCSO, Samastipur which was referred to police under Section 156(3) of Cr.P.C. on which FIR was registered.

Incident is stated to be of 19.5.20220, but complaint was lodged on 18.6.2020 in the POCSO Court in which, 14 are named accused and 4 unknown accused.

Earlier, on 13.4.2020, a complaint was filed by Neha Kumari (sister of informant) that on account of dispute of grazing by her goat on 10.4.2020 she was beaten by accused for which, she lodged Sanaha being S.D. Entry No.394/2020 dated 13.4.2020 in Vidaypati Police Station, however, same was compromised after Panchayati.

It is further stated that an FIR was instituted by mother of present complainant (Soni Devi) on 21.5.2020 in Mahila police station, Samastipur that on 10.4.2020, petitioner and



other accused committed rape upon her minor daughter and thereafter all family members including complainant were confined in their house and somehow or other, she escaped on 21.5.2020 and came to Mahila Police Station and registered Mahila P.S. Case No.28/2020 dated 21.5.2020. Contents of both FIR are contradictory to each other.

It is further stated that complainant is habitual litigant and she has got filed Vidyapati Nagar P.S. Case No.83/2010 by the uncle of the victim namely Ajay Kumar Sah. Apart from this, the complainant has also got filed C.R. Case No.157/2018 by the cousin of the victim and C.R. Case No. 89/2020 by the sister of the victim and finally a case bearing C.R. Case No.90/2020 which amounts to abuse of process of court.

Petitioner has no criminal antecedent except Samstipur Mahila P.S. Case No.28/2020 which was filed earlier to present case. Petitioner is in custody since 10.02.2021.

Considering the aforesaid facts and circumstances of the case, let the petitioner named above be released on bail upon furnishing bail bond of Rs. 20,000/- with two sureties of the like amount each to the satisfaction of learned court below where the case is pending, in connection with **Samastipur Mahila P.S. Case No. 67 of 2020**, with following conditions:-

(1) Both the bailors shall be the resident of



territorial jurisdiction of the learned court-below.

(2) The petitioners shall fully cooperate with the investigation / trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the petitioner.

(S. Kumar, J)

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