

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38899 of 2021

Arising Out of PS. Case No.-273 Year-2020 Thana- NAUBATPUR District- Patna

Dhananjay Kumar @ Dhanjay Kr. S/O Dharamraj Kumar Mochi R/O Village-
Tarwa, Post- Aarap, P.S.- Naubatypur, District- Patna

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Helal Ahmad

For the Opposite Party/s : Mr. Ashok Kumar Singh

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 24-02-2022 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner seeks bail in connection with Special
Case No.99 of 2020 arising out of Naubatpur P. S. Case No.273
of 2020, instituted for the offences under Sections 376, 504, 34
of the Indian Penal Code.

The learned counsel for the petitioner submits that the
petitioner is in custody since 13.06.2020, charge-sheet has been
submitted in this case and has antecedent of one case.

The learned counsel for the petitioner further submits
that the informant alleges that on 26.05.2020 at about 9.00 P.M.,
his daughter aged about 16 years had gone to attend the nature's
call when accused/ petitioner came and committed rape upon
her daughter. The victim disclosed the occurrence to the



informant. Accordingly, the informant went to the house of the accused/ petitioner where he was abused by Rahul Kumar and Ranjan Kumar.

The learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. The date of occurrence is 26.05.2020 and the F.I.R. came to be instituted on 29.05.2020 i.e. after a delay of three days without any plausible explanation.

It is further submitted that from the allegation as alleged in the F.I.R., it would also manifest that the informant after coming to know about the occurrence, she went to the house of the petitioner where she alleges that she was abused. The learned counsel submits that it absolutely does not stand to reason that if the victim was raped by the petitioner then where was the occasion for the informant to go to the house of the petitioner, rather the informant ought to have gone to the police at the earliest.

The learned counsel for the petitioner further submits that the victim immediately after institution of the F.I.R. was examined by the doctor and the medical report records the age of the victim in between 17-19 years. It also records that in terms of A.P. view and according to the dental texture, the age is



in between 14-16 years. The injury report clearly records that there is no mark of violence on any part of the body.

The learned counsel thus submits that if the victim would have been raped then definitely some evidence in the injury report must have been recorded, but the injury report completely negates the allegation of rape. The learned counsel further submits that the victim was in love with this petitioner and she had gone to meet him and when the informant came to know about the same, this false case came to be instituted.

Learned A.P.P. opposes the bail application, but is not able to meet the submission of the learned counsel for the petitioner with respect to the injury report.

Considering the fact that the petitioner is in custody, charge-sheet has been submitted in this case and the injury report negates the prosecution case and there is a delay in instituting the F.I.R. without any plausible explanation and also the conduct of the informant in going to the house of the petitioner instead of going to the police station, the petitioner, above-named, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-VII-cum-



Exclusive Special Court (POCSO Act), Patna in connection with
Special Case No.99 of 2020 arising out of Naubatpur P. S. Case
No.273 of 2020, subject to condition that one of the bailors shall
be the father of the petitioner namely, Dharamraj Kumar Mochi.

The application stands allowed.

(Satyavrat Verma, J)

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