

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36242 of 2022

Arising Out of PS. Case No.-50 Year-2022 Thana- AMDABAD District- Katihar

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Sirajuddin Son Of Late Md. Ilyash R/O Village- Bharanathi, P.S.- Amdabad,
District- Katihar

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Lakshmi Kant Sharma, Adv.

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

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 18-10-2022 Let the defect(s), if any, be removed within two weeks
from today.

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks regular bail in connection with
Amdabad P.S. Case No. 50 of 2022 lodged under Sections 341,
342, 376 of the I.P.C. read with Section 4 of the POCSO Act.

As per the prosecution case, the informant has
disclosed that she is narrating the fardbeyan on 12.03.2022 at
about 10 A.M. before police that previous day at about 10 A.M.,
her daughter went to school who reads in Class IV. It has been
submitted that at about 11 A.M., informant's co-villager,
petitioner has called the daughter of the informant and
committed rape. This information she received from one co-

villager Md. Farooq. The informant further stated in the F.I.R. that she immediately reached school and thereafter the victim has narrated story of rape with mother. It has been specifically alleged in the F.I.R. by the informant that she returned to house and provided bath, cleaned the cloth of the victim and next day reached before the police and with the help of co-villagers, the petitioner was also handed over to the police.

Learned counsel for the petitioner submits that petitioner is aged about 64 years (adhar card attached). The said allegation of rape upon him is absolutely false and not correct. It has been argued by him that the medical report of the victim is Annexure-2. The doctor has opined that there is no mark of injury on the private part, layer intact and no sign of intercourse was found. Learned counsel submits that petitioner is in custody since 12.03.2022 having clean antecedent, charge sheet has already been filed in this case.

Learned counsel for the State opposes the prayer for bail and submits that the statement of the victim girl under Section 164 of Cr.P.C. was made before the Court which has annexed in the case diary. He has argued the content of the case diary. Learned counsel for the petitioner in response submitted that there is absolutely a markable difference between the

versions of the case diary that is statement under Section 164 of Cr.P.C. and the statement made in the F.I.R. He submits that the victim girl has narrated that she become unconscious but even after being unconscious, she has narrated every thing which has been happened during unconscious stage also by which it transpires that it is not possible for a person to narrate those things when he/she become unconscious. I found there is extreme contradiction in the statement in the F.I.R. and in statement under Section 164 of Cr.P.C.

In the present facts and circumstances of this case and the submissions made above, let the petitioner above named, be granted bail on furnishing bail bonds of Rs.30,000/- (Rupees Thirty thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge Cum Addl. District and Sessions Judge VI, Katihar in connection with Amdabad P.S. Case No. 50 of 2022, subject to the conditions as laid down under Section 437(3) of Cr.P.C. with other following conditions:

A. The petitioner shall support in trial and shall appear physically before the lower court on each and every date fixed, in case of non-appearance for two consecutive dates without sufficient cause, shall be resulted into cancellation of his bail bond.

B. One of the bailors shall be close relative who shall file affidavit before the court about his relationship with the petitioner.

C. The petitioner shall file an affidavit at the time of furnishing of bail bond that he shall not involve in such criminal activity during the continuance of present bail bond, violation of this condition shall be resulted into cancellation of his present bail bond.

With this observation, the bail application stands allowed.

(Dr. Anshuman, J.)

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