

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36989 of 2022

Arising Out of PS. Case No.-86 Year-2020 Thana- MAHINDWARA District- Sitamarhi

Pravesh Rai @ Ram Pravesh Rai @ Praveen Rai @ Pramesh Rai Son of Ram
Pratap Rai @ Pratap Ray Resident of Village-Kharhua, P.S.-Mahindwara,
District-Sitamarhi.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Alok Kumar Alok, Adv. with
Mr. Virendra Kumar, Adv.
For the Opposite Party/s : Mr. Binay Krishna, APP

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
Mahindwara P.S. Case No. 86 of 2020 lodged under Sections
363, 366A, 376, 504/34 of the I.P.C. read with Sections 4, 6 of
POCSO Act and Section 3(i)(xi)(xii) of the SC/ST Act.

As per the prosecution case, the informant, mother of
the victim has alleged that on 29.06.2020 at about 8 P.M., her
daughter was kidnapped with the purpose of marriage with 10
named accused persons with co-villager Avadhesh Ray @ Baba.
It has been alleged that rape was made to the victim by

Avadhesh Ray @ Baba and Dashrath Ray. It has been further stated in the F.I.R. that forcefully the kidnappers has brought the daughter of the informant from village to Banaras. But any how, when on 01.07.2020, the daughter of the informant returned, then they have filed this case before the police station.

Learned counsel for the petitioner submits that petitioner is innocent and has committed no offence. It has been stated that the date of occurrence of commission of alleged crime is 29.06.2020. The kidnapped girl was recovered on 01.07.2020 but the present case has been lodged on 17.07.2020. Learned counsel for the petitioner submits that both petitioner and informant's side are resident of the same village and they are well known to each other. It has been submitted that the petitioner is 6 brothers. The genealogy obtained from *Sarpanch Gram Kachahari* is annexed (at page 28) of this petition by which it transpires that Avadhesh Ray @ Baba and the present petitioner are full brothers. The F.I.R. has been lodged against Avadhesh Ray @ Baba and 9 others. The name of the petitioner is not given in the F.I.R. Learned counsel further submits that the alleged victim was major and her marriage was solemnized with one Ranjan Ram on 16.07.2020. In this regard, certificate has been given by the *Mukhiya* and *Sarpanch* of the *Gram*

Panchayat (Annexure-6/7).

Learned counsel for the petitioner further submits that his brother Avadhesh Ray @ Baba was very much interested to marry and live with the daughter of the informant and even after oppose of the family member, he was started living with the informant's daughter at his house. But the family members of the informant in connivance with the daughter of the informant had killed his brother Avadhesh Ray @ Baba. In this regard, the petitioner's side has received information on 17.07.2020 and thereafter, filed case about murder of his brother on 18.07.2020.

Learned counsel for the petitioner submits that as soon as the family members of the informant received information that petitioner has visited to the police station to lodge the F.I.R. against them, he reached with the daughter of the informant (victim) on the same day before the Court and narrated statement under Section 164 of Cr.P.C. in which the alleged victim has made direct allegation of rape against the present petitioner whereas in the F.I.R., her mother has made allegation against his elder brother Avadhesh Ray @ Baba and petitioner was not even named in the F.I.R. showing her age as 15 years whereas the said victim already married on 16.07.2020 showing her age as 18 years 6 months. Learned counsel submits

that in this background, the statement of the petitioner under Section 164 of Cr.P.C. may not be relied upon.

Learned counsel further submits that the petitioner is in custody since 03.01.2022. He is the man of clean antecedent, charge sheet has already been filed in this case.

Learned counsel for the State opposes the prayer for bail.

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 1st Additional Sessions Judge-cum-Special Judge SC/ST (POA) Act, Sitamarhi in connection with Mahindwara P.S. Case No. 86 of 2020, subject to the conditions as laid down under Section 437(3) of Cr.P.C.

With this observation, the bail application stands allowed.

(Dr. Anshuman, J.)

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