

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38712 of 2022

Arising Out of PS. Case No.-77 Year-2021 Thana- MAHILA P.S. District- Samastipur

KAILASH KUMAR @ KAILASH MAHTO SON OF RAM PRAKASH
MAHTO R/O VILLAGE- SALKHANNI, P.S.- BIBHUTIPUR, DISTT.-
SAMASTIPUR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Abhay Shankar Singh, Advocate
For the Opposite Party/s : Mr.Rina Sinha, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 29-09-2022 Heard learned counsel for the petitioner and

learned counsel for the State.

Let the defect(s), if any, as pointed out by the
office be removed within four weeks.

The petitioner is in judicial custody in connection
with Mahila P.S. Case No. 77 of 2021 for the offences under
Sections 376(DA), 363, 366(A)/34 of the Indian Penal
Code, Sections 4 and 6 of POCSO Act and Section 67(A) of
Information Technology Act.

As per the prosecution story, the informant-victim
girl was returning with her boyfriend, Manish Kumar



meanwhile four persons stopped them and captivated them. Further the accused persons made physical relation with the girl. Hence, the FIR instituted.

Learned counsel for the petitioner submits that two different version has come in the matter inasmuch as the FIR and the 164 Cr.P.C. statement of the victim girl does not match. While in FIR, allegation is there of rape by the accused persons, under 164 Cr.P.C. statement, no such version is there. It is his last submission that not only Manish Kumar but Lalit and Pappu Kumar have also been granted the privilege of bail vide Cr. Misc. No. 2094 of 2022 (Manish Kumar) and Cr. Misc. No. 7426 of 2022 (Dilip Kumar, Ram Lalit Singh, Pappu Kumar). It is his next submission that he is in custody since 4.6.2022, the medical report has also opined the age of the victim between 17-18 years and no sign of recent sexual assault have been found.

Considering the fact that the 164 Cr.P.C. statement does not match with the FIR, the girl has been opined to be 17-18 years of age, other accuseds have also been granted the privilege of bail and the charge-sheet stands submitted, this Court is inclined to grant him the privilege of bail.



Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of like amount each to the satisfaction of learned Additional Sessions Judge-VI cum Special Court (POCSO), Samastipur, in connection with Mahila P.S. Case No. 77 of 2021 subject to the following conditions:-

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his/her bail bond by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every fortnight for next six months to mark his attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at



liberty to take steps for cancellation of his bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

Ajay
Singh/Ravi-

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