

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38608 of 2022

Arising Out of PS. Case No.-3 Year-2022 Thana- GARDANIBAG District- Patna

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Aniket Kumar @ Aniket Raj S/o Sri Kamlesh Kumar R/m- Jakkanpur, Devi
Asthan, P.S.- Jakkanpur, Distt.- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Sinha, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 18-10-2022 Heard learned counsel appearing on behalf of the

petitioner and learned APP appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with
Gardanibagh P.S. Case No. 3 of 2022 registered for the offence
under Sections 366A and 34 of the Indian Penal Code and
Sections 4, 8 and 12 of the POCSO Act and, later on, Section 376
of the Indian Penal Code was added subsequently.

The accused/petitioner is named in the F.I.R. and is in
custody since 09.01.2022.

The allegation against the petitioner is to commit
rape/penetrative sexual assault upon the daughter of the
informant, who is a minor, aged about 15 years.



Learned counsel appearing on behalf of the petitioner submitted that petitioner has been falsely implicated in the present case, as petitioner was in friendly terms with the victim girl. It is submitted that there is contradiction between the statement of the victim recorded u/s 161 *qua* 164 of the Cr.P.C., as per the allegation of rape/penetrative sexual assault is concerned. It is further submitted that the medical evidence is also not supporting the allegation, as no spermatozoa was found. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and, moreover, investigation in this case is complete for which chargesheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State, while opposing the prayer of bail, submitted that the victim girl supported the factum of sexual relations, while she was with the petitioner in the hotel.

In view of the facts and circumstances, as mentioned above and by taking note of contradiction in the statement of victim recorded u/s 161 *qua* 164 of the Cr.P.C., where factum of penetrative sexual assault is not available against this petitioner, who is in custody since 09.01.2022 coupled with the fact that chargesheet has already been submitted, let the petitioner, above



named, is directed to be released on bail in connection with Gardanibagh P.S. Case No. 3 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-VI-cum-Special Judge (POCSO Act), Patna/concerned Court, subject to the following conditions:

“(i) That accused/petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) That accused/petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner, duly supported by the documents.

(iii) That one of the bailors shall be Kamlesh Kumar, who is the father of the



petitioner and deponent of the present bail
petition.”

The physical appearance of concerned I/O before this
Court is dispensed with.

(Chandra Shekhar Jha, J)

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