

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48950 of 2021

Arising Out of PS. Case No.-28 Year-2020 Thana- MAHILA P.S. District- Samastipur

NIVAS KUMAR @ NIWAS KUMAR S/o Rajendra Mahto Resident of
Village - Simri, P.S. Vidyapati Nagar, District - Samastipur - 848503.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shashi Kumar, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 31-03-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

In compliance of the order dated 14.02.2022, the
Superintendent of Police, Samastipur is present.

Learned A.P.P., on instruction from the Superintendent
of Police, Samastipur, submits that as far as confinement of the
informant and her daughter is concerned, the same was denied
by the informant but she stated before the Superintendent of
Police, Samastipur that a vigil was being kept against her while
she was staying in her house.

On this, learned counsel for the petitioner submits that
in the FIR, it is alleged that while the informant and the victim
were going to the hospital, they were forcefully abducted and
kept in confinement, as such, this part of the allegation stands
falsified.



Further, the learned A.P.P. submits that the informant was not able to clearly show the place of occurrence to the Superintendent of Police, Samastipur but the villagers, who were initially not coming forward, have stated that two goats went in the field of Nivas Kumar for grazing.

Learned counsel for the petitioner on this submits that if the occurrence had taken place on account of dispute relating to grazing of maize crop by the goats of the informant then definitely the informant would have shown the place of occurrence to the Superintendent of Police, Samastipur. It is further submitted by the learned A.P.P. that the medical report records that sexual contact has been established in past on which learned counsel for the petitioner submits that merely establishing sexual contact does not, in any manner, justify rape and that too gang rape by seven persons. Learned counsel submits that the victim might have come in contact with someone who established sexual relation but it does not, in any manner, support the allegation of gang rape.

Considering the submissions of the learned counsel for the petitioner and taking into consideration the order dated 25.01.2022, the provisional bail granted to the petitioner stands confirmed.



The personal appearance of the Superintendent of Police, Samastipur is dispensed with.

(Satyavrat Verma, J)

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