

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50177 of 2021

Arising Out of PS. Case No.-71 Year-2018 Thana- KARTAHA District- Vaishali

Dilip Singh, Son of Umakant Singh, R/O Village- Bhatauli Bhagwan, P.S. -
Kartaha, District- Vaishali at Hajipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Niranjana Parihar, Advocate
For the Opposite Party/s :	Mr. Satyendra Narayan Singh, APP
For the Informant :	Mr. Nityanand, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

9 17-10-2022 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Niranjana Parihar, learned counsel for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Kartahan P.S. Case No. 71 of 2018 registered for the offences punishable under Sections 341, 324, 307, 376, 447 of the Indian Penal Code.

In compliance of order of this Court, a counter affidavit, duly sworn by the Dy.S.P. (H.Q.), Vaishali at Hajipur, has been filed admitting the fact that despite direction given by the Supervisory Authority, the investigating officer failed to



obtain the injury report of the victim, who was allegedly subjected to rape at the hands of the petitioner. It is stated that the investigating officer has submitted charge-sheet in the case on 27.12.2018 taking into consideration the fact that the petitioner may not take undue advantage of the provisions of Section 167(2) of the Cr.P.C. and has missed to collect the injury report of the victim of the rape allegedly committed by the petitioner as well as Medical treatment paper etc. It is also submitted that since the case is based on the fardbeyan of the victim herself and, as such, there was no occasion to get recorded her statement under Section 164 of the Cr.P.C..

This Court is surprised to see the insensitiveness of the police personnel towards human values and the manner in which the investigation has conducted and despite knowing the admitted laches on the part of the investigating officer, no action has been taken against him, which shows the sorry state of affairs of the police department.

The prosecution case is based on the fardbeyan of the informant alleging therein that on 30.10.2018, while she was cooking food for her grand-father, in the meantime, the petitioner came there and on being found her alone committed rape upon her. It is also alleged that she was also dragged out of



her house and on protest being made, she was assaulted by means of brick and knife with intention to kill, causing serious injuries on her neck and shoulder.

Learned counsel appearing on behalf of the petitioner submits that in fact this case has been instituted on the backdrop of the previous enmity and village politics and no such occurrence as alleged has taken place. He next submits that there is neither any medical report suggesting that the victim was subjected to rape or any injury report available on record. He next submits that the charge-sheet has already been submitted, way back on 27.12.2018, but till date even the charges have not been framed and the matter is kept pending. He further submits that the petitioner, having fair antecedent, is in custody since 02.11.2018 and even during the course of investigation, the witnesses have not fully supported the prosecution case. It is also submitted that all the injuries have been found simple in nature, caused by hard and blunt substance.

On the other hand learned counsel for the informant vehemently opposes the bail application and submits that from the materials available on record, it appears that the investigating officer was gained over, as he failed to bring on



record the medical report as well as the injury report of the victim and surprisingly the same has been done only after the order passed by this Court. He next submits that during the course of investigation, all the witnesses, whose statements have been recorded, have categorically supported the prosecution case that the victim was subjected to rape at the hands of the petitioner.

Learned counsel for the State also opposes the bail application and submits that the injury report has been brought on record by way of filing counter affidavit and from the report it suggests that the victim sustained various injuries, as is evident from the supplementary injury report, issued by the PARAS HMRI Hospital, Patna and, moreover, the injuries found to be grievous in nature.

Regard being had to the submissions made on behalf of the parties and considering the specific nature of accusation and gravity of offence, apart from the injury report, which corroborate the prosecution case as well as statement of the independent witnesses, this Court is not persuaded to enlarge the petitioner on bail.

Accordingly, the present application for grant of bail of the petitioner stands rejected.



It is expected that the learned trial court will take all
endeavour and to expedite the trial and conclude the same, as
early as possible.

(Harish Kumar, J)

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