

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49905 of 2021

Arising Out of PS. Case No.-9 Year-2021 Thana- MAHILA THANA District- Begusarai

ATUL KUMAR @ RAHUL KUMAR S/O LATE SURESH SINGH R/o
village- Ramdiri Nkita Tola, Ward No. 4, P.S.- Matihani, District- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Braj Bhushan Poddar, Advocate

For the Opposite Party/s : Md. Matloob Rab, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 16-05-2022 Heard learned counsel for the petitioner and

learned Additional Public Prosecutor appearing for the

State.

Petitioner seeks regular bail in connection with
Begusarai P.S. Case No. 09/2021 registered for the offences
punishable under Sections 376/34 of the Indian Penal Code
1860 and Section 4 of POCSO Act.

As per the prosecution story, the petitioner called
on Mobile phone of the victim (informant) and told her that
he would arrange a job for her in V2 Mall and asked the
victim to reach Ambedkar Chowk where one Reena Devi
would meet the victim. The caller i.e. the petitioner told her
to hand over all the papers to Reena Devi and said Reena



Devi took her to a building at Pokharia where the petitioner was present. It has further been alleged that after confining the victim (informant) in a room of that building, the petitioner has committed rape upon her.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in this case with oblique motive inasmuch as the victim (informant) was working in V2 Mall as sales Staff, in which, the petitioner was working as Supervisor. The informant was having love affair with co-employee Raushan Kumar and both of them used to indulge in some physical activities during working hour which was being objected by the petitioner not to the liking of the informant. Accordingly, the present false case under Section 376 has been lodged.

Learned counsel referring to Annexure-3 to the supplementary affidavit submits that from perusal of the identity card it would be clear that the petitioner was working in V2 Mall since 28.3.2019. He also relies upon the statement of his bank account where the salary earned by the petitioner was being deposited. Learned counsel further submits that the medical examination of the victim girl was



held on the date of occurrence itself i.e. on 2.4.2021 and from perusal of the medical report at Annexure-2 it would be clear that no spermatozoa was found by the Doctor. The doctor has opined that no evidence of recent sexual assault was found on the victim (informant). He next submits that under Section 53-A of the Code of Criminal Procedure, it is the statutory duty of the Police authority to get the accused examined medically but to the best of knowledge of the authority, the petitioner was not physically examined before the Medical Practitioner despite the fact that he was arrested on the same day by the Police Authority. The petitioner is in custody since 2.4.2021.

Regards being had to the submission made by the parties and taking into consideration the medical examination of the victim girl, the fact that the petitioner was working in the V2 Mall as Supervisor and he was not medically examined after his arrest on the same date of occurrence, I am inclined to grant regular bail to the petitioner.

Accordingly, let the petitioner, above named, be released on regular bail on furnishing bail bonds of



Rs.20,000/- (Twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-VI - cum- Special Judge, POCSO Act, Begusarai, in connection with Mahila P.S. Case No. 09 of 2021.

(Anil Kumar Sinha, J)

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