

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56537 of 2021

Arising Out of PS. Case No.-184 Year-2012 Thana- CHHATAUNI District- East Champaran

Dhiraj Kumar @ Aditya, S/O Sunil Kumar @ Sunil Kumar Srivastava, R/O
Village-Parsauni, P.S- Piparahi, District-Sheohar.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kumod Kumar Shrivastaw, Adv.

For the Opposite Party/s : Mr.Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 06-04-2022 Learned counsel for the petitioner undertakes to

remove all the defects as pointed out by office within two weeks

after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr.
Akhileshwar Dayal, learned A.P.P. for the State.

Petitioner in the present case has renewed his prayer

for bail in connection with Tr.No.643 of 2018 arising out of
Chhatauni P.S. Case No.184 of 2012 registered for the offences
punishable under Sections 363, 366A/34 of the Indian Penal
Code and later on Sections 341, 366A and 376 of the Indian
Penal Code has also been added. He is in custody since
29.11.2017. The petitioner has got no criminal antecedent.

Learned counsel for the petitioner submits that as per

the prosecution story the informant alleged that his daughter



aged about 17 years has been kidnapped by the name accused (1) Chhotu Kumar and (2) Viku Kumar. He also gave the three mobile numbers from which calls were made on his mobile.

It is submitted that the daughter of the informant went missing on 17.09.2012 but the FIR was lodged on 19.09.2012.

Learned counsel further submits that the victim girl returned after about one month two days. No step was taken to get recorded her statement immediately under Section 164 Cr.P.C. The police presented her for her statement under Section 164 Cr.P.C. on 20.03.2013 i.e. after about five months after her coming back. At this stage the petitioner has been implicated in this case. It is submitted that in the medical examination the victim girl was found major and her age was more than 19 years. The allegation of commission of rape has been made against this petitioner at a much belated stage as an afterthought.

Learned counsel further submits that at the relevant time this petitioner hardly aged about 18 and half years and happened to be a student. His prayer for bail was earlier rejected by the learned Predecessor Bench of this Court vide order dated 20.06.2019 with a direction to the learned court below to expedite the trial but till date the trial has not concluded and there is no substantial progress in the trial.



Learned counsel submits that in any case the petitioner has remained in custody for about four and half years which in itself is a substantial period of custody and during this period the trial has not been concluded, the petitioner deserves privilege of bail.

Learned APP for the State has though opposed the prayer for regular bail of the petitioner, but does not dispute that the victim girl was found major in her medical examination, she returned after about one month two days but her statement under Section 164 Cr.P.C. was recorded after about five months when this petitioner was implicated in this case and at this stage the petitioner has remained in custody for four and half years approximately.

Having regard to the submissions noted hereinabove, the materials that the victim girl was major as has been noticed by learned court below also in the impugned order and that the petitioner has remained in custody for four and half years approximately but the trial is not likely to be concluded in near future and his presence may be secured in course of trial, this Court directs that the petitioner above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the



satisfaction of learned 1st Additional Sessions Judge, East Champaran, Motihari in connection with Tr.No.643/2018 arising out of Chhatauni P.S. Case No.184 of 2012, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

