

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57987 of 2021**

Arising Out of PS. Case No.-765 Year-2019 Thana- SARAIYA District- Muzaffarpur

Chandan Kumar @ Chandan Sahani Son of Upendra Sahni @ Birendra Sahni
Resident of Village- Salempur Dumariya, P.S.- Garaul, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Dr. Mrityunjaya Kr. Gautam, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

3 16-05-2022 Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the State.

The application for grant of regular bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Saraiya (Jaitpur O.P.) P. S. Case No. 765 of 2019 registered for the offences punishable under Sections 341, 323, 325, 307, 354(B), 427, 504, 506 and 302 read with Section 34 of the Indian Penal Code.

As per the prosecution case, it is alleged that on 12.10.2019 this petitioner taking advantage of loneliness,



entered into the house of the informant and tried to outrage the modesty of the niece of the informant, whereupon the mother of the informant tried to apprehend him but she was thrown down, which resulted into fracture of her leg. It is further alleged that on protest being made by the informant and her mother all the F.I.R. named accused persons variously armed with *lathi* and *danda* came to the house of the informant and stated assaulting his family members. It is subsequently stated that co-accused Manjay assaulted Lakhandra Sahni by means of *lathi* over his head. It is also alleged that on 15.11.2019, the mother of the informant died during the course of treatment.

Learned counsel appearing on behalf of the petitioner submits that with regard to the incidence which had taken place on 12.10.2019, the present F.I.R has been instituted on 16.11.2019 on the basis of a written report, filed by the informant on 15.11.2019. It is further submitted that even the statement of the injured, who ultimately said to have been died on account of fracture, has not been recorded by the Police. It is also pointed out that during the course of the investigation, independent witnesses have not supported the allegation of ravishing the informant and general and omnibus allegation has been levelled again all the accused persons, who are all family



members. It is next submitted that this petitioner has no criminal antecedent and he is in custody since 21.06.2021, though the investigation has already been completed and the charge-sheet has been submitted in the present case.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that there is specific allegation against this petitioner that he has tried to ravish the niece of the informant.

Having considered the submissions made on behalf of the parties and taking into account the fact that there is delay of more than one month in lodging of F.I.R. and no plausible explanation has been stated by the informant. Apart from the fact that neither the statement of the injured was recorded nor any information in this regard has been given to any of the authorities or the court. Even during the course of the investigation none of the witnesses have supported the allegation of any attempt to ravish the niece of the informant and this petitioner having no criminal antecedent, is in custody since 21.06.2021, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, 1st



Class, West, Muzaffarpur in connection with Saraiya (Jaitpur O.P.) P. S. Case No. 765 of 2019, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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