

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58508 of 2021

Arising Out of PS. Case No.-448 Year-2020 Thana- RAMNAGAR District- West Champaran

Tunna Khan S/o Bhagelu Khan Resident of Village- Jolahatoli Ward No.10,
P.S.- Ramnagar, District- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Milind Kumar Mishra, Advocate.

For the Opposite Party/s : Mr. Jagdhar Prasad, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 19-05-2022 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 Mr. Milind Kumar Mishra, learned counsel for the petitioner and Mr. Jagdhar Prasad, learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Ramnagar P. S. Case No. 448 of 2020 registered for the offences punishable under Sections 376, 511, 354 and 506 read with 34 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act.

As per the prosecution case, it is alleged that on 17.11.2020, when the informant had gone to the house of some



other persons for household work, in the meantime, the petitioner Tunna Khan entered in her house and tried to commit rape upon her daughter, she further alleged that when she made complaint in this regard before his father, brother and other named accused persons, they told her that they are ready to solemnize marriage of her daughter with the petitioner and when she refused, they assaulted the informant and her daughter, son and son-in-law.

Learned counsel appearing on behalf of the petitioner submitted that with regard to an incidence which has taken place on 17.11.2020, the present F.I.R. has been instituted on 16.12.2020, almost about a delay of one month. It is further submitted that during the course of investigation, various discrepancies have come in the statement of the informant and her daughter. It is also submitted that the statement of the victim was recorded by the learned Special Court and she has categorically stated that this petitioner has tried to outrage the modesty of the victim. It is next submitted that during the course of investigation some independent witnesses have also stated that because of old animosity the name of the petitioner and his entire family members have been implicated in the present case and this petitioner is in custody since 04.01.2021 though the



investigation has already been completed and charge-sheet has been submitted.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that the statement of the victim has been recorded under Section 164 Cr. P.C. wherein she supported the prosecution version that she was subjected to ravish at the hands of this petitioner and apart from this petitioner has been found involved in three other criminal cases of grievous nature.

Having considered the submissions made on behalf of the parties and taking into account the fact that there is a delay of one month in lodging of the F.I.R. and no plausible explanation for the delay has been stated and further, this case appears to be as case of an attempt to outrage the modesty of a woman; apart from the fact that some of the independent witnesses have disclosed that because of previous animosity, the name of the petitioner has been falsely implicated in this case and moreover, this petitioner is in custody since 04.01.2021, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge VII-cum- Special Judge POCSO



Act, Bettiah, West Champaran in connection with Ramnagar P.
S. Case No. 448 of 2020, 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.
- (v) If he is found indulge in such kind of cases in future the State will be at liberty to file an application for cancellation of his bail.

(Harish Kumar, J)

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