

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50606 of 2022

Arising Out of PS. Case No.-77 Year-2022 Thana- MADHUBANI TOWN District-
Madhubani

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SHIVA KUMAR Son of Raj Kumar Rai R/V- Ganga Sagar Chowk, Ward no.
8, P.S- Nagar, Dist- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sumit Shekhar Pandey
For the Opposite Party/s : Mr.Shantanu Kumar

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 13-12-2022 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 on resumption of physical mode.

Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner has preferred this application for grant
of regular bail in a case registered under section 376D of the
Indian Penal Code and sections 4, 8 and 12 of the POCSO Act.

As per the prosecution case, the victim along with
Rajesh Kumar was going on E-Rickshaw and when they
reached near the V-Mart, two accused persons entered the
rickshaw and started molesting the victim. Later one more
accused person came on a white motorcycle and the two



accused persons sitting in the E-Rickshaw forcefully made the victim sit on the motorcycle and they took the victim to a lonely place beside bus stand and committed rape on her. Further, two unknown miscreants came and tried to commit rape on her. Meanwhile, Rajesh Kumar informed the police and when the police reached the place of occurrence, accused persons started fleeing away but three accused persons were apprehended who disclosed their names as Co-accused Kishan Kumar and the petitioner Shiva Kumar who committed rape on the victim and third co-accused person as Pankaj Ram who is alleged to have attempted to commit rape on her.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. Learned counsel has further submitted that as per the statement recorded under Section 164 of the Cr. P.C., the court has assessed the age of the victim as 20 years. Learned counsel further submitted that the occurrence took place on 26.02.2022 and the same day medical examination was conducted and as per the medical report of the medical board, no medical evidence of sexual assault found at the time of examination. The medical report also states that no external and internal injury was present on the private part of the victim. Nothing has been recovered from the



conscious possession of the petitioner. The petitioner has clean antecedent as stated at para 3 of the bail petition. The petitioner is in custody since 26.02.2022.

Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting that it is a case of gang rape.

Considering the aforesaid facts and circumstances, the petitioner above-named as well as the period of detention, is directed to be enlarged on bail on furnishing bail-bond of Rs.20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Madhubani, in connection with Madhubani town P.S. Case No. 77 of 2022.

The application stands allowed.

(Chandra Prakash Singh, J)

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