

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64715 of 2021

Arising Out of PS. Case No.-78 Year-2021 Thana- RAUTARA District- Katihar

MD. ZAMIL Son of Md. Irshad Resident of Village - Hathiya Diara, Chama-
para, P.S.- Rautara, District - Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Bimal Kumar
For the Opposite Party/s	:	Mr. Jagdhar Prasad

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 31-03-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in a case registered for the offences punishable under Section 376 of the Indian Penal Code and Section 4 of the POCSO Act.

Learned counsel for the petitioner submits that petitioner is in custody since 03.09.2021 and chargesheet has been submitted. Petitioner is a person with clean antecedent.

Learned counsel for the petitioner further submits that informant alleges that she had gone to the field to plough patua, when the petitioner came and forcibly raped her after gagging her mouth. Further, while fleeing, his adhaar card fell.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. The



alleged date of occurrence is 02.08.2021 and the victim was medically examined on 04.08.2021 as is evident from Annexure-2 to the bail application. Learned counsel for the petitioner further submits that from perusal of the injury report, it would manifest that the same records no mark of injury seen on her body, no mark of injury on her private part, vagina loose, hymen torned and no spermatozoa found. Hence, the victim has gone intercourse for some time. Learned counsel for the petitioner, thus, submits that the medical of the victim was done on the very next day of institution of the F.I.R. and nearly about two days after the occurrence but no sign of rape was found. It is, thus, submitted that the petitioner has been falsely implicated. Learned counsel for the petitioner further submits that if rape was committed, then, definitely some kind of injury either external or internal would have been found on the body of the victim. Learned counsel further submits that in the event of acquittal of the petitioner after a prolonged trial, how this period of incarceration would be compensated and if the petitioner is subsequently convicted, he will serve the sentence. Learned counsel for the petitioner further submits that since injury report is not supporting the prosecution case, as such, the petitioner deserves to be enlarged on bail.



Learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the fact that the petitioner is in custody since 03.09.2021, chargesheet has been submitted in the case, the petitioner is a person with clean antecedent and taking into consideration the submissions made by learned counsel for the petitioner, let the petitioner above named be released on bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Court below where the case is pending/successor Court in connection with Rautara P.S. Case No. 78 of 2021.

In the event, if the learned Court below come to a conclusion that the petitioner is evading the Court for framing of charge, then the learned Court below by a reasoned order will be at liberty to cancel the petitioner's bail.

(Satyavrat Verma, J)

Ankit/-

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