

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68847 of 2021

Arising Out of PS. Case No.-1 Year-2021 Thana- MAHILA P.S. District- Vaishali

Ujjwal Kumar @ Rohit Kumar S/O Ramanand Rai, R/o village- Kutupun
Saidpur, P.S.- Bidupur, District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs. Soni Shrivastava, Advocate

Mr. Neeraj Kumar, Advocate

For the Opposite Party/s : Mr. Amit Kumar Rakesh, APP

For the Informant : Mr. Mrityunjay Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 21-09-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Mahila P.S. Case No. 01 of 2021 registered for the alleged offences under Sections 376/34, 504 and 506 of the Indian Penal Code and sections 3/ 4 of the POCSO Act.

As per prosecution case, the minor informant alleged that the petitioner committed rape with her in the night of 30.12.2020 and thereafter on 01.01.2021 the petitioner tried to again commit rape with the informant and the petitioner and other



co-accused persons assaulted the uncle of the informant when he tried to save her.

Learned counsel for the petitioner submits that petitioner is innocent and has been falsely implicated in this case due to enmity. In fact, the victim is a domestic help in the house of the one Vijay Rai, who set her up to falsely implicate the petitioner to save his skin from the case registered for an occurrence which took place on 01.01.2021 in which the uncle of this petitioner was murdered by the said Vijay Rai and other co-accused persons. The case was lodged as Bidupur P.S. Case No. 03 of 2021 and was registered by Rajnish Kumar, the son of the deceased Rajendra Rai. In retaliation thereof the entire family of the petitioner has been falsely implicated in the present case only to pressurize them to withdraw their case. The allegation of rape is not believable and there is inordinate delay in lodging the F.I.R. as the occurrence is stated to have taken place on 30.12.2021 and F.I.R. has been registered on 02.01.2021. It is further not believable that a family which is the victim of murder case will go in the house of the murderers and try to commit rape with domestic help and assault other person. Learned counsel further submits the allegation of rape is falsified even from the medical report which shows no sign of recent sexual activities and further no injury whatsoever has been found either on the body of the victim or on her genitals.



Learned counsel further submits that the statement of the victim was recorded under Section 164 Cr.P.C and she made improvisation and her statement is at variance with her written report on which the F.I.R. of the present case has been lodged. It is a case of completely false implication and the petitioner is an engineer who returned to his home during lockdown. Charge sheet has been submitted in this case and the petitioner is in custody since 08.09.2021.

Learned APP for the State and learned counsel appearing on behalf of the informant oppose the prayer for bail of the petitioner. Learned counsel for the informant submits that the victim is a minor and she has supported her case in her statement recorded under Section 164 Cr.P.C. She has specifically alleged that the petitioner committed rape with her on 30.12.2020.

Perused the records.

Having regard to the facts and circumstances and submission made on behalf of the parties and further considering the case registered by the side of the petitioner for the death of the uncle of the petitioner, false implication appears to be a possibility and further considering the period of custody along with submission of charge sheet, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the



satisfaction of learned Exclusive Special Court POCSO-cum-A.D.J.-VI, Vaishali at Hajipur in connection with Mahila P.S. Case No. 01 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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