

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69554 of 2021

Arising Out of PS. Case No.-136 Year-2020 Thana- KIUL District- Lakhisarai

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NIRAJ KUMAR @ GHANTUL KUMAR @ GHANTU KUMAR @
KHANTUL KUMAR Son of Mr. Shyam Kishor Saw Resident of Village -
Basmatiya, P.S. - Kiul, District - Lakhisarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ajay Thakur, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 19-04-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in a case registered under
Sections 323, 342, 343, 366(A) and 376 of the Indian Penal
Code read with Section 8 of the POCSO Act.

Learned counsel for the petitioner submits that the
petitioner is in custody since 17.08.2021, charge-sheet has been
submitted in the case and is a person with clean antecedent.

Learned counsel for the petitioner submits that the
informant alleges that on 31.10.2020, the petitioner along with
Ravi called the minor daughter of the informant outside the
house, after calling her on her mobile, and took her to their
house and established physical relation and also assaulted her. It
is further alleged that the minor girl somehow fled on



03.11.2020 at about 3:00 hrs and came back to her house and disclosed that she was taken to the house of petitioner where the accused committed rape upon her.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case, it is submitted that from perusal of the allegation as alleged in the F.I.R. it would manifest that admittedly the victim was called by the petitioner and the accused on 31.10.2020 and till 03.11.2020 she was in their confinement before she fled, it is thus submitted that had the victim been kidnapped or taken away by anyone then the family members of the victim would have definitely and promptly instituted an F.I.R. It is further submitted that the fact that no F.I.R. was instituted by the family members with regard to kidnapping of the victim that in itself creates apprehension with regard to the veracity of the prosecution story. Learned counsel further submits that from perusal of the injury report as recorded in paragraph '55' of the case diary it would manifest that no external or internal injury was found and it is also recorded that there was no sign of sexual violence, further at paragraph '56' it is recorded that the victim has been assessed in between 15-16 years. The learned counsel submits that it absolutely does not stand to reason that as to why F.I.R.



was not instituted promptly when the victim was missing from the house from 31.10.2020 to 03.11.2020, further, the injury report clearly negates the prosecution story though the victim in her statement recorded under Section 164 Cr.P.C. has supported the prosecution case. It is further submitted by the learned counsel for the petitioner that from perusal of paragraph '90' of the case diary it would manifest that in between 31.10.2020 to 03.11.2020 based on the investigation of the CDR it has come to light that the victim was continuously talking with this petitioner.

Learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner but is not able to meet the submission of the learned counsel for the petitioner with regard to the injury report as recorded in the case diary.

Considering the fact that the petitioner is in custody since 17.08.2021, is a person with clean antecedent, charge-sheet has been submitted in the case and taking into consideration the submissions made by the learned counsel for the petitioner, let the petitioner above named be released 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 the learned court below where the case is



pending/successor court in connection with Kiul P.S. Case No.
136 of 2020 with a condition that one of the bailors of the
petitioner shall be his father, Shyam Kishor Saw.

(Satyavrat Verma, J)

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