

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71585 of 2021

Arising Out of PS. Case No.-158 Year-2021 Thana- BAKHTIYARPUR District- Patna

Rakesh Kumar, Son of Late Lal Babu Ray, R/V - Naya Tola Bariyarpur, P.S.-
Bakhtiyarpur, District - Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajay Kumar, Adv.

For the Opposite Party/s : Mr.Madhura Nand Jha, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 18-05-2022 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail in connection with Bakhtiyarpur P.S. Case No.158 of 2021 registered for the offences punishable under Sections 376/511, 379/34 of the Indian Penal Code . He is in custody since 30.08.2021 having no criminal antecedent as stated in paragraph ‘3’ of the application.

As per the prosecution story, on 18.08.2021 at about 9.00 pm the informant started from her village to go to her Naihar Malda in the State of West Bengal. She reached near the



road and waiting for vehicle to go to Bakhtiyarpur Railway Station. In the meantime, her villagers Vikash Kumar and Rakesh Kumar (this petitioner) came on a Apache motorcycle. As the informant was not taking any vehicle for going to Bakhtiyarpur station she stopped the motorcycle and asked the petitioner and his friend to drop her at Bakhtiyarpur station. At this stage, it is stated that the informant and her 7 years old son sat on the motorcycle which was being driven by Vikash Kumar. As regards this petitioner, it is stated that he was seated on the back side. It is then alleged that when the motorcycle was taken towards Simari she enquired as to where they were going whereafter she was told that Simri route will be a short route, but it is then alleged that near Simri village in the maize field they stopped the motorcycle and both of them tried to commit rape on the informant whereupon the informant sought and on hearing her sought the villagers assembled and on seeing them the accused persons fled away.

Learned counsel for the petitioner submits that it is a case of false implication of the petitioner. There is no eye witness of this case and the fact that the FIR has been lodged on the next day and it was seen by learned C.J.M. after four days are the circumstances showing that the petitioner has been



falsely framed in this case.

It is further submitted that even as per her own statement the informant had herself stopped the motorcycle and had requested the accused persons to take her to Bakhtiyarpur station. It seems to be highly unbelievable that at about 9.00 pm in the village she would come outside her village to take a vehicle knowing fully well that no passenger vehicle would be available in the area at about 9.00 pm. It is lastly submitted that in any case the petitioner has remained in custody for about nine months, investigation against him is complete and his presence may be secured in course of trial.

Learned APP for the State has though opposed the prayer for bail of the petitioner saying that there are allegations of attempt to rape but on going through the allegations in the FIR and the submissions as noted hereinabove as also that the petitioner has remained in judicial custody for about nine months and his presence may be secured in course of trial, this court directs release of the petitioner above named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned A.C.J.M.III, Barh, Patna in connection with Bakhtiyarpur P.S. Case No.158 of 2021, subject to the



condition as laid down under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

