

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10713 of 2023

Arising Out of PS. Case No.-425 Year-2022 Thana- MINAPUR District- Muzaffarpur

NITESH KUMAR @ NITISH KUMAR Son of Late Shivnath Ray R/v-
Pipraha, P.S.- Minapur, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Santosh Kumar

For the Opposite Party/s : Mr.Syed Ehteshamuddin

CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER

6 08-11-2023 Heard learned counsel for the petitioner, learned
counsel for the informant and learned APP for the State.

2. The petitioner has prayed for regular bail in a case registered for the offence punishable under sections 341, 323, 452, 354(A), 304, 354(B), 376, 120B/34 of the Indian Penal Code.

3. As per prosecution case, the informant alleged that at night of 20.8.2022 the petitioner entered into her house and committed rape with her. Again, he also committed rape on 21.8.2022. It is also alleged that on 21.8.2022, panchayati was held but during conversation, the petitioner along with others started assaulting and abusing the informant/victim.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. There is land dispute between the parties and with intention to capture



the land of the petitioner, he has falsely been implicated in this case by the informant. It is further submitted that the allegation against the petitioner to commit rape with the victim on 20.8.2022 but subsequently, the FIR was not registered. It is said that on the next day on 21.8.2022, the petitioner again committed rape with the victim thereafter, the FIR was lodged on 22.8.2022. The delay of lodging FIR creates doubt on the prosecution case. From perusal of para-24 of the case diary, it appears the victim declined for the medication examination but ultimately, on 24.8.2022 medical was conducted and doctor opined no spermatozoa was present. It is also submitted that the victim/informant is a married and matured lady. The petitioner has got no criminal antecedent as stated in para-3 of the bail petition. It is further submitted that the petitioner is languishing in judicial custody since 23.8.2022.

5. Learned APP appearing for the state has opposed the prayer of regular bail.

6. Having heard learned counsel for the parties and considering the facts and circumstances of the case as well as custody of the petitioner, this court is inclined to enlarge the petitioner on bail. The above named petitioner is directed to be released on bail **after framing of charge, if not framed** in



connection with Minapur P.S. Case No. 425 of 2022 on
furnishing bail bond of Rs.10,000/- (ten thousand) with two
sureties of the like amount each to the satisfaction of learned
Chief Judicial Magistrate, Muzaffarpur.

(Sunil Kumar Panwar, J)

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