

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8279 of 2023

Arising Out of PS. Case No.-636 Year-2021 Thana- RAMKRISHNANAGAR District- Patna

ARVIND KUMAR S/o Rajesh Prasad Resident of Village- Chuhadi, P.S.-
Chanpatia, Distt- Betiah. At present Mohalla- Nandlalchapra, P.S.-
Ramkrishna Nagar, Distt- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arvind Kumar

For the Opposite Party/s : Mr. Yogendra Kumar

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 11-07-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State along with the learned counsel for the
informant.

The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 341, 323,
354(b), 379 of the Indian Penal Code.

Learned counsel for the petitioner submits that the
petitioner is a person with clean antecedent.

Learned counsel for the petitioner, at the outset,
submits that the order dated 06.07.2023, it has been recorded
that:

*“Let the Investigating Officer of the case remain
physically present before this Court on 10.07.2023 along with*



copy of the case diary to explain that under what circumstances, Section 376 of the IPC has been added in the present case when from perusal of the allegation, it appears that it is the case of rape.”

Learned counsel for the petitioner submits that it appears that, inadvertently, it has been typed as that from perusal of allegation it appears that it is a case of rape when it ought to have been that from perusal of allegation, it appears that it is not a case of rape.

Considering the submissions, the order dated 06.07.2023 is modified to read as:

“Let the Investigating Officer of the case remain physically present before this Court on 10.07.2023 along with copy of the case diary to explain that under what circumstances, Section 376 of the IPC has been added in the present case when from perusal of the allegation it appears that it is not a case of rape.”

The Investigating Officer of the case, in compliance of the order dated 06.07.2023, is present.

Learned counsel for the petitioner submits that the informant alleges that on 14.12.2021, she along with her mother had gone to visit her maternal sister and in the evening, at 6:00



pm when she was going to the washroom, when the petitioner forcibly caught her hands and took her to his flat and tried to commit rape and even touched her inappropriately and even snatched her chain worth Rs. 40,000/-, further on hearing alarm, her mother came and saved her.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case, it is next submitted that from perusal of the allegations as alleged in the FIR, it would manifest that the informant does not even remotely suggest that she was raped, rather, allegation is of an attempt, it is next submitted that it absolutely does not stand to reason that if what has been alleged is true in the FIR, then why the mother and her maternal sister did not come to the rescue of the informant when the petitioner was forcefully taking her from the flat of her maternal sister to his flat, it is further submitted that if what has been alleged is true then definitely the informant would have raised a hue and cry when the petitioner was forcefully taking her from the flat of her maternal sister to his flat, it is next submitted that it appears that the informant gave an exaggerated version of the occurrence in her statement recorded under Section 161 and 164 of the CrPC, wherein, she has alleged that she was raped also. Learned counsel submits



that the injury report does not even remotely suggests rape. Learned counsel further submits that in the FIR the informant alleges that on hearing alarm, her mother came in the flat of the petitioner to save her but in her statement recorded under Section 164 CrPC, she has stated that she came back to her flat and disclosed about the occurrence to her mother and sister but then the sister did not take any action, it is further submitted that the statement of the victim recorded under Section 164 CrPC, when compared with her allegation in the FIR, it appears that the same is dichotomic and has been made only with a view to give a serious colour to the case.

Learned counsel for the petitioner submits that the petitioner will not abscond, rather, will cooperate in the investigation and will present himself as and when required by the Investigating Officer.

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

Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/-



(Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Ramkrishna Nagar P.S. Case No. 636 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

The personal appearance of the Investigating Officer of the case is dispensed with.

(Satyavrat Verma, J)

HarshPandey/-

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