

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6486 of 2023

Arising Out of PS. Case No.-49 Year-2022 Thana- SONBERSA District- Sitamarhi

CHHABILA MANDAL Son of Mahendra Mandal R/V- Rohua, Ps- Sonbarsa,
Dist- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Madhubala Verma, Adv.

For the Opposite Party/s : Mr.Ganesh Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 20-07-2023 Heard learned counsel for the petitioner and learned
counsel for the informant as well as learned A.P.P. for the State.

The petitioner seeks bail in connection with Sonbarsa
P.S. Case No. 49 of 2022 dated 17.02.2022 registered for the
offence under Sections 376(DA)of the Indian Penal Code and
Section 4/6 of the POCSO Act.

The petitioner is alleged to have established physical
relation with the informant and threaten her to kill if she
revealed the occurrence.

Learned counsel appearing for the petitioner submits
that the petitioner, who is of clean antecedent, is innocent and
has falsely been implicated in this case. He further submits that
the allegation, as alleged in the F.I.R., is false and fabricated and
the petitioner has not committed any offence. He further submits



that on bare perusal of the F.I.R., it appears that the occurrence is alleged to have been committed on 14.02.2022 whereas the instant F.I.R. has been lodged on 17.02.2022 after more than three days without any explanation. He further submits that the medical report does not support the allegation as alleged in the F.I.R. against the petitioner. Moreover, co-accused, Sushil Mandal having more or less similar allegation has already been granted bail by a co-ordinate Bench of this Court vide order dated 30.08.2022 passed in Cr. Misc. No. 32063 of 2022. He further submits that the police after investigation has submitted charge-sheet in this case against the petitioner. The petitioner is rotting in judicial custody since 11.10.2022.

A report with regard to present stage of the trial has been called for by this Court vide order dated 20.06.2023 which has been received and forms part of this application at Flag-B dated 01.07.2023. On perusal thereof, it would reveal that case is pending for framing of charge.

Learned counsel appearing for the petitioner referring to the aforesaid report submits that the trial of this case is not likely to be concluded in near future and the petitioner is languishing in judicial custody since 11.10.2022.

Learned A.P.P. for the State on the basis of material available on record and the case diary vehemently opposed the prayer for bail of the petitioner and submits that there is direct



allegation of commission of rape upon the informant leveled against the petitioner and the victim in her statement recorded under Section 164 Cr.P.C. has categorically stated that the petitioner has committed rape upon her. He further submits that so far as medical report is concerned, the same appears to be have been conducted after 48 hours from the date of alleged occurrence, therefore, there would be more probability of no sign of any recent sexual assault on the person of the victim. He further submits that the received from the trial court suggest that within nine moths trial would be completed.

Considering the facts and circumstances of the case and the present stage of the trial as reported by the trial court and also the direct allegation of commission of rape against the petitioner, this Court is not inclined to grant the privilege of bail to the petitioner. Accordingly, the prayer for bail of this petitioner is rejected.

(Rajesh Kumar Verma, J)

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