

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5572 of 2023

Arising Out of PS. Case No.-620 Year-2020 Thana- BANKA District- Banka

NITISH KUMAR @ NITISH KUMAR YADAV Son of Manoj Yadav R/V-
Changari P.s- Barhat, Dist- Banka

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ranjan Kumar Jha, Adv. Mr.Sanjeev Kumar @Deepak Sahay
For the Opposite Party/s	:	Mr.Anant Kumar 1

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 25-01-2023 Heard Mr. Ranjan Kumar Jha, learned counsel for the
petitioner and Mr. Anant Kumar No.1, learned A.P.P.

Petitioner has renewed his prayer for regular bail in
connection with Banka (Barahat) PS Case No. 620 of 2020
registered under Section 376(g) of the I.P.C. and Section 4 of the
POCSO Act.

This is the second attempt on behalf of the petitioner
for grant of regular bail. Earlier, the prayer for regular bail of the
petitioner was permitted to be withdrawn by this Court *vide*
order dated 24.02.2022 passed in Cr. Misc. No. 34626 of 2021
giving liberty to the petitioner to renew his prayer for bail after
statement of the victim girl is recorded during course of the trial.

The prosecution case as per the F.I.R. is that the



petitioner along with other co-accused persons forcibly dragged the informant in an agricultural field (*bahiyar*) and committed rape upon her.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in this case due to village politics and he is in custody since 03.12.2020. He further submits that no sign of rape has been found in the medical examination of the victim girl and the informant has not clearly stated about commission of rape by the petitioner and others in her statement recorded under Section 164 Cr.P.C. He next submits that the victim-informant was examined as PW-3 during the course of trial and from perusal of her deposition (Annexure- 5 to the bail application) it would be evident that she has not supported the prosecution story. He further submits that similarly situate co-accused / Deepak Kumar Mandal and Ashish Kumar Yadav have been enlarged on bail by this court *vide* Cr. Misc. Nos. 72380 of 2022 & 73454 / 2022 respectively.

Regard being had to the submissions made by the parties, taking into consideration the fact that petitioner is in custody since 03/12/2020, the victim girl / informant has not supported the prosecution story during the course of trial, this is 2nd attempt for bail on behalf of the petitioner and similarly



situated co-accused persons have been granted bail by this Court, as such, I am inclined to grant regular bail to the petitioner.

Let the petitioner, above named, be released on regular bail on furnishing bail bond of Rs. 20000 /- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge 6th cum Special Judge (POCSO), Banka in connection with G.R. No. 101 of 2020 arising out of Banka (Barahat) P.S. Case No. 620 / 2020 subject to the condition:-

(a) that the petitioner shall remain physically present on each and every date during the course of trial and in case of default on two consecutive dates, his bail bond shall liable to be cancelled.

(Anil Kumar Sinha, J)

praful/-

U		T	
---	--	---	--

