

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9630 of 2022

Arising Out of PS. Case No.-34 Year-2021 Thana- MAHILA PS District- Aurangabad

AVINASH KUMAR S/o Anil Ram R/o village- Phulwariya, Past War, P.S.-
Madanpur, District- Aurangabad, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Akhilesh Kumar Sinha, Advocate

For the Opposite Party/s : Mr.Anand Mohan Prasad Mehta, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 02-01-2023 Heard the learned counsel for the
petitioner and the learned A.P.P. for the State.

The petitioner seeks regular bail in
connection with Mahila P.S. Case No. 34 of 2021 for
the offence registered under Sections 363 and
376(D)/34 of the Indian Penal Code.

The case of the prosecution, according to
the informant, is that on 16.10.2021 at about
12:30 P.M. she had gone out of her house to go to
a house in the neighbourhood, however, one Rahul
Kumar forcibly made her sit in a vehicle and took
her away, whereafter, he committed rape with her.
It is also alleged that along with the said Rahul



Kumar, the petitioner and one Pankaj Kumar were also present there. The informant has also stated that thereafter, the police force of Mufassil Police Station had apprehended them.

The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case and is having a clean antecedent. The learned counsel for the petitioner has further submitted that the petitioner has got no role in the alleged occurrence inasmuch as he had subsequently joined the victim and the co-accused person namely Rahul Kumar and in the FIR the informant has not alleged any untoward incident to have been committed by the petitioner herein.

Per contra, the learned A.P.P. appearing for the State has vehemently opposed the prayer for bail and has referred to the statement made by the victim girl under Section 164 Cr.P.C. before the learned Magistrate to submit that the victim girl has categorically stated that one person namely Rahul had arrived at the place of occurrence while



she was going from her house to the house of her friend Sanjana on 16.10.2021 and had sprinkled spray resulting in her becoming unconscious on the road itself. It has also been stated by the victim girl that when she regained consciousness, she was in a room and the said Rahul was committing rape with her. The said Rahul is stated to have then called his brothers by ringing them on their mobile phones and one Pankaj Paswan had arrived there. The victim girl has also stated that all the three accused persons had then threatened her that if she did not marry Rahul, they would kill her, whereafter, they had taken her away, however, on the way police patrolling party had apprehended them and informed the parents of the victim girl. The learned A.P.P. for the State has further submitted that the petitioner has also aided in the crime and supported the main accused namely Rahul Kumar in commission of rape with the victim girl, hence he does not deserve to be granted bail at the moment. The learned A.P.P. for the State has also referred to the medical report,



prepared after medical examination of the victim girl, to submit that the victim girl has been found to have undergone sexual act recently, which goes to corroborate the commission of rape by the co-accused person namely Rahul.

I have heard the learned counsel for the parties and gone through the materials on record as also perused the case diary from which the complicity of the petitioner in the alleged occurrence is writ large and there is no denial of the fact that he has aided the main accused Rahul in commission of the alleged heinous crime of rape, hence I am not inclined to grant bail to the petitioner herein, thus the present petition stands dismissed.

(Mohit Kumar Shah, J)

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