

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18052 of 2023

Arising Out of PS. Case No.-40 Year-2022 Thana- MAHILA P.S. District- Lakhisarai

DIGVIJAY MAHTO Son of Rajkishore Mahto Resident of Village- Billo,
P.S.- Ramgarh Chowk, District- Lakhisarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shailesh Anand, Advocate

For the Opposite Party/s : Mr. Arun Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

3 17-08-2023 Heard the parties.

The petitioner is an accused in connection with Lakhisarai Mahila P.S. Case No. 40 of 2022 registered for the offences under sections 341, 323, 379, 376, 354B, 448, 504 and 34 of the Indian Penal Code and sections 4 and 8 of the POCSO Act lodged on 31.07.2022 by the informant, Suman Devi.

As per the prosecution story, the allegation is of assault and outraging the modesty of the victim lady by the accused persons. Accordingly, the FIR.

Learned Counsel for the petitioner submits that all of them are family members and due to dispute between them, this allegation. It has been submitted that the allegation of rape has not been found and as such, section 376 of the Indian Penal Code is not part of the charge sheet.



The further submission is that two of the accused persons namely, Rajkishore Mahto and Nandkishore Mahto have subsequently been extended the privilege of bail by a co-ordinate bench in Cr. Misc. No. 29595 of 2023 on 25.07.2023.

Learned APP for the State, on the other hand, opposes the prayer for bail stating that even if the case of rape is not made out, there is allegation of outraging the modesty/rape as also assault.

Though, there is allegation of assault and outraging of modesty attributed to the accused persons in view of the fact that the two of the similar placed co-accuseds, namely, Rajkishore Mahto and Nandkishore Mahto have since been granted bail, this Court is also inclined to extend him privilege of bail.

Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousands only) with two sureties of like amount each to the satisfaction of the learned Additional District and Session Judge-VI-cum-Special Judge, POCSO, Lakhisarai in connection with Lakhisarai Mahila P.S. Case No. 40 of 2022, subject to the following conditions:-

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his



bona fide;

(ii) the petitioner shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial court itself;

(iii) the petitioner shall appear before the concerned police station every fortnight for next six months to mark attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of his bail bonds;

(v) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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