

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17851 of 2023

Arising Out of PS. Case No.-155 Year-2019 Thana- RAJIVNAGAR District- Patna

Sunil Kumar @ Sunil Driver @ Sunil Rai Son Of Late Jhapsi Rai @ Chhapsi Rai Resident Of Village Jai Prakash Nagar, In Front Of Canara Bank, Ashiyana Road, Ps- Rajivnagar, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dewendra Narayan Singh, Advocate

For the Opposite Party/s : Mr. Binay Krishna, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 03-07-2023 Heard learned counsel appearing on behalf of the petitioner and learned APP appearing on behalf of the State.

The petitioner seeks bail in connection with Rajivnagar P.S. Case No.155 of 2019 registered for the offence under Sections 376 and 376-D of the Indian Penal Code and Sections 3(2)(v) of SC/ST Act.

The accused/petitioner is named in the F.I.R. and is in custody since 09.01.2023.

The allegation against the petitioner is to commit rape upon minor daughter of informant alongwith other co-accused persons.

Learned counsel appearing on behalf of the petitioner submitted that petitioner is falsely implicated in this case only



being the friend of main co-accused, namely Ritesh Kumar, with whom the daughter of informant was in love affairs. It is also submitted that entire basis of implication is based upon hearsay input as narrated by victim to informant being father. It is further pointed out that during the course of investigation the statement of victim was recorded under Section 161 of the Cr.P.C., where she specifically named co-accused Ritesh Kumar, as to commit rape upon her, while she visited an undisclosed destination alongwith him without stating anything against this petitioner. It is further submitted that in para 26 of the case diary, the statement of victim appears recorded under Section 164 of the Cr.P.C., where she not even mentioned the main co-accused and altogether narrated different story stating that four unknown persons committed rape upon her, despite of having earlier identifications as petitioner was named in present F.I.R. It is also submitted that no external injuries were noticed in and around the private part or other body parts of the victim suggesting physical resistance and moreover, her age was found between 16 to 18 years at the time of occurrence. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and moreover, investigation of this case has been completed, for which, charge-sheet has already submitted,



as such, there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State,
opposes the prayer for bail.

In view of the facts and circumstances as mentioned above as petitioner is named in present F.I.R. but victim failed to name this petitioner through her statement either recorded under Section 161 of the Cr.P.C. or through her statement recorded under Section 164 of the Cr.P.C. coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 09.01.2023, accordingly above named petitioner is directed to be released on bail in connection with Rajivnagar P.S. Case No.155 of 2019 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-VI-cum-Spl. Judge, POCSO, Patna/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J.)

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