

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21271 of 2023

Arising Out of PS. Case No.-47 Year-2022 Thana- KHIRHAR District- Madhubani

BIRENDRA MAHTO @ BIRENDRA KUMAR @ VIRENDRA MAHTO
Son of Dukhai Mahto R/V- Kamtaul PS- Harlakhi Dist- madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Subhash Kumar Jha, Advocate
For the Informant	:	Mr. Vijay Kumar, Advocate
For the State	:	Mr. Ajay Kumar No. 2, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 13-07-2023 Heard learned counsel for the petitioner, learned counsel appearing on behalf of the informant and learned APP for the State.

Petitioner seeks bail, who is in custody since 10.07.2022 in connection with Khirhar P.S. Case No. 47 of 2022, F.I.R. dated 05.07.2022 registered for the offences punishable under Sections 363, 366(A)/34 of the Indian Penal Code.

Allegation against the petitioner is that he along with two other accused persons kidnapped the minor daughter of the informant who is aged about 16 years.

Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has been falsely



implicated in the present 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 as alleged in the F.I.R. He further submits that the date of occurrence as alleged in the F.I.R. is 25.06.2022 but the present F.I.R. was instituted on 05.07.2022 after delay of ten days without giving any explanation of delay. He further submits that from perusal of the statements of the victim recorded under Sections 161 and 164 of the Cr. P.C. it appears that there is major contradiction between them. He further submits that the police after investigation submitted chargesheet against the petitioner and the petitioner is in custody since 10.07.2022.

Learned counsel appearing on behalf of the Informant as well as learned APP for the State, on the other hand, vehemently opposed the prayer for bail of the petitioner and submits that the statement of the victim was recorded under Section 164 of the Cr. P.C. in which she has stated that the petitioner has committed rape upon her and as per record available in the case diary the date of birth of the victim is 24.11.2005 and it appears that on the date of occurrence the victim was minor.

Considering the aforesaid facts and there is direct



allegation against the petitioner, I am not inclined to enlarge the petitioner on bail in connection with Khirhar P.S. Case No. 47 of 2022 pending in the Court of learned S.D.J.M., Benipatti, District- Madhubani.

Prayer is refused.

(Rajesh Kumar Verma, J)

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