

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22212 of 2023

Arising Out of PS. Case No.-165 Year-2022 Thana- HAYAGHAT District- Darbhanga

Ranjan Mukharjee, Son of Sunil Kumar Mukherjee, Resident of Village - Hayaghat, P.S.- Hayaghat, District - Darbhanga.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Girish Chandra Jha, Advocate

For the Opposite Party/s : Mr. Anuj Kumar Shrivastava, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 13-07-2023 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. The accused/petitioner seeks bail in connection with Hayaghat P.S. Case No.165 of 2022 registered for the offence punishable under Section 376 of the Indian Penal Code.

3. The accused/petitioner is named in the FIR and is in custody since 09.11.2022.

4. Allegation against the petitioner is to commit rape upon informant/victim, who is a married lady and mother of one child. The occurrence was committed by petitioner when informant/victim approached him for a train ticket, as petitioner runs a cyber cafe.

5. It is submitted by learned counsel that it appears highly improbable that rape can be committed in such a manner after administering intoxication as alleged through present FIR.



It is submitted that no video recording, as alleged, regarding occurrence was collected by police during the course of investigation, which is calyx of entire allegation. While travelling over argument, it is submitted that if narration of FIR be taken into consideration then certainly, at the time of committing offence, the informant/victim was senseless and as such, the allegation of rape is not appearing convincing rather same is on the basis of suspicion what she noticed from her physical condition after regaining the sense. It is further submitted that medical report is also not supporting the allegation, as no sign of rape or physical assault was noticed upon victim/informant. It is submitted that implication is out of previous money dispute as informant/victim was acquainted with petitioner through common friend, who is also a co-accused of this case, namely, Manoj Rai, being co-villager of informant/victim. While concluding argument, it is submitted that the petitioner is a man of clean antecedent and moreover investigation of this case has been completed for which, charge-sheet has been submitted and, as such, there is no chance of tampering with the evidence.

6. Learned APP while opposing the prayer of bail submitted that the specific allegation of rape is available against



this petitioner, who committed rape upon informant/victim after administering some intoxicating substance through tea. It is submitted that non-finding of injury or spermatozoa in vaginal swab does not lead to a conclusion *ipso facto* that rape was not committed upon informant/victim, as rape is not a medical finding rather same is legal one. It is submitted that allegation of rape against petitioner is duly supported by informant/victim through her statement recorded under Section 164 of the Cr.P.C. and there is not apparent reason to doubt it.

7. In view of above-mentioned facts and circumstances and by taking note of fact as victim/informant supported the occurrence of rape as committed upon her by this petitioner through her statement recorded under Section 164 of the CrPC, accordingly, the prayer for bail of petitioner is rejected herewith for the present.

8. The learned Trial Court is directed to expedite the trial and conclude the same preferably within nine months from the date of receipt of a copy of this order.

(Chandra Shekhar Jha, J.)

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