

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23658 of 2023

Arising Out of PS. Case No.-118 Year-2019 Thana- BAIRIYA District- West Champaran

Awadh Kumar @ Awadh Awgadh S/O Mahesh Awgadh R/O Village- Balua
Nautan, P.S- Nautan, Distt.- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance:

For the Petitioner/s	:	Mr. Bashishtha Narayan Mishra, Advocate
		Mr. Brij Kishor Mishra, Advocate
		Mr. Avinash Raj, Advocate
For the Opposite Party/s	:	Mr. Madan Kumar, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

- 2 23-05-2023 1. Heard learned counsel for the petitioner and the learned APP for the State.
2. Petitioner seeks regular bail in connection with Bairiya P.S. Case No. 118 of 2019 dated 01.04.2019 registered for the offences punishable under Sections 363, 366(A) read with Section 34 of IPC and Section 8 of POCSO Act.
3. The main submissions advanced by learned counsel for the petitioner are that co-accused persons Rajan Sah and Kailash Sah, who are named in the FIR, have been granted bail by different Benches of this Court vide orders passed in Cr. Misc. No. 16134 of 2020 and Cr. Misc. No. 3778 of 2021 respectively and one co-accused namely, Nandu Yadav has been granted bail by this Bench vide order passed in Cr. Misc. No. 21234 of 2022 and this petitioner is not named in the FIR, though his name

came into light in the statement of the victim recorded under Section 164 of Cr. P.C. but against this petitioner there is no serious allegation except helping the co-accused persons in taking away the victim and the allegation of rape is against two co-accused persons and the petitioner has fair and clean antecedent and he has been languishing in jail since 19.12.2022 and against him the investigation has been completed and petitioner's name has been dragged in this case due to village politics. Further submission is that as per allegation the victim was forcefully taken to Bettiah Railway Station, from where she was taken to Ludhiana by a train but during course of travelling she did not make any resistance against the acts of the accused persons which goes against the allegations levelled by her and also shows her consent in going with the accused persons.

4. Learned APP for the State opposes the bail prayer of the petitioner.

5. Considering the above submissions and mainly petitioner's custody period, his young age as disclosed in the petition as well as his fair and clean antecedent and also the facts that the main allegation of rape is against two co-accused persons namely, Santosh and Jitendra as appears from the victim's statement recorded under Section 164 of Cr.P.C., of

which copy has been filed along with this petition as Annexure- 2 and also taking into account the completion of investigation against this petitioner and the privilege of bail having been granted to above mentioned co-accused persons, in my opinion, it is a fit case for bail to the petitioner. Accordingly, let the petitioner named above be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of concerned Court in connection with **Bairiya P.S. Case No. 118 of 2019.**

(Shailendra Singh, J)

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