

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29769 of 2023

Arising Out of PS. Case No.-49 Year-2022 Thana- MAHILA P.S. District- Kishanganj

Ramanand Ganesh Son Of Shivilal Ganesh Village Katalbari Po- Padampur
Ps- Dighalbank, Distt- Kishanganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raju Giri, Advocate

For the Opposite Party/s : Md. Aslam Ansari, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 04-07-2023 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
Kishanganj Mahila P.S. Case No.49 of 2022 registered for the
offence under Sections 376-3 and 34 of the Indian Penal Code
and Section 4 of the POCSO Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 25.01.2023.

The allegation against the petitioner is to commit



rape upon minor daughter of informant aged about 12 years alongwith other co-accused persons.

Learned counsel appearing on behalf of the petitioner submitted that petitioner has been falsely implicated in the present case, where land lease with the informant which was executed by grand father of the petitioner was not extended for further period out of certain reasons. It is submitted from the narration of F.I.R. that allegations are appearing false as, first occurrence of rape which was alleged to committed by this petitioner on 14.11.2022, when victim went to the field for grazing buffalo was not reported to police. It is alleged that after the occurrence a mobile was given by this petitioner to the victim to remain in touch in future is also not appearing convincing. It further appears that on 20.11.2022 by using said mobile petitioner called victim from her home and committed rape upon her and after the occurrence dropped her at Bahdurganj Government Hospital on 21.11.2022. It is submitted that age of victim as per medical report is between 15-17 years, where no external and internal sign of violence was noticed. Learned counsel further pointed statement of victim as recorded under Section 164 of the Cr.P.C., where she was completely silent about the first occurrence of rape alleged to be committed



upon her on 14.11.2022, creating a serious doubt over entire allegation. It is further submitted that statement of victim as recorded under Section 164 of the Cr.P.C. was recorded after one month of occurrence, having all possibilities of tutoring for the reason that all such time victim was with her parents. It is also submitted that present F.I.R. was lodged after seven days of last occurrence as an afterthought, where delay is not explained. 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, while opposing the prayer for bail submitted that specific allegation of rape is available against this petitioner, which is also supported by the statement of victim as recorded under Section 164 of the Cr.P.C.

In view of the facts and circumstances as mentioned above and by taking note of the fact as victim is silent over the first occurrence of rape, which was committed on 14.11.2022, through her statement as recorded under Section 164 of the Cr.P.C. and not even whispered about the circumstance under



which first occurrence took place, as explained through F.I.R., alleged to be lodged on her version by her father an informant coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 25.01.2023, accordingly, petitioner, above named, is directed to be released on bail in connection with Kishanganj Mahila P.S. Case No.49 of 2022 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, First-cum-Special Judge, Kishanganj/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C. with further conditions :-

(i) That petitioner shall not interact with victim/informant during the trial in any manner or to influence any prosecution witnesses, failing which, the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) Accused/Petitioner shall



cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.

(iii) That one of the bailors shall be deponent of the present bail petition.

(Chandra Shekhar Jha, J.)

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