

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29657 of 2023

Arising Out of PS. Case No.-77 Year-2022 Thana- NAYAGAON District- Begusarai

JABAHAR TANTI S/O RAJENDRA TANTI R/O Village- Mahammadpur
Gautam Ward no. 11, Mirzapur, P.S- Nayagaon, Distt.- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Randhir Kumar No.1, Advocate
For the Opposite Party/s : Mr. Umanath Mishra, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 28-08-2023 Heard the parties.

2. The petitioner is an accused in connection with Nayagaon P.S. Case No. 77 of 2022 registered for the offences under sections 376(D), 504, 506 and 34 of the Indian Penal Code and sections 4 and 6 of the POCSO Act lodged on 13.10.2022 by the informant, Karishma Kumari.

3. As per the prosecution story, the victim girl has alleged that her parents were out for treatment since last one week, she was residing alone with her younger brothers, the two accused persons including this petitioner, entered home and one after another, they raped her. Next morning, this was reported to the grand mother and other co-villagers followed by the FIR.

4. Earlier, a case diary was called for by the co-ordinate bench on 12.06.2023, which has since been received as



also the Medical Report.

5. The victim girl has supported the prosecution story but the statement is slightly different inasmuch as it has been stated by her that subsequently next morning, she informed her Teacher who took her to the Police Station.

6. A medical team was constituted and the report is on record which include the external and internal findings as also opinion of the Medical Board which read as follows:-

“External finding:- No injuries found over any part of the body including front and back.

Internal finding:- No seminal stain on genitalia and thighs, no injury on genitalia, Hymen intact, Vaginal swab taken and send to pathology for presence of spermatozoa. Advice for preservation of under garment and send to forensic lab for DNA testing.

Opinion:- No evidence of recent sexual assault found in victim.”

7. It is the case of the petitioner that the case of the victim girl is that despite parents outside home for a week, the door was opened, in FIR, she narrates the fact that she informed the grand-mother, while making statement under section 164 of the Cr.P.C. she changes course stating that she informed her Teacher on the next day. This supported with the Medical Report shows that the accuseds have been implicated. The last



submission is that he is in custody since 14.10.2022 (as stated in paragraph 13 of the bail application) and do not have criminal antecedent.

8. Learned APP for the State, on the other hand, opposes the prayer for bail stating that the girl has made statement under section 164 of the Cr.P.C. supporting the case. He however, has gone through the Medical Report and the external and internal findings as also the opinion of the Medical Board.

9. Taking into account the facts on record, the submissions put forward by the learned Counsel for the parties, the Medical Report, FIR lodged, the petitioner will be facing the trial. However, for the purposes of bail, this Court is prima facie satisfied that this case is fit for allowing the relief as sought for by the petitioner.

10. Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousands only) with two sureties of like amount each to the satisfaction of the learned Additional Sessions Judge VI Cum Special Judge, POCSO Act, Begusarai in connection with Nayagaon P.S. Case No. 77 of 2022, subject to the following conditions:-

(i) one of the bailor should be the family member of



the petitioner who shall provide official document to show his
bona fide;

(ii) the petitioner shall appear on each and every date
before the Trial court and failure to do so for two consecutive
dates without plausible reason will entail cancellation of his bail
bond by the Trial court itself;

(iii) the petitioner shall appear before the concerned
police station every month for next one year to mark attendance;

(iv) the petitioner shall in no way try to induce or
promise or threat the witnesses or tamper with the evidences,
failing which the State shall be at liberty to take steps for
cancellation of his bail bonds;

(v) the petitioner shall desist from committing any
criminal offence again failing which the State shall be at liberty
to take steps for cancellation of the bail bonds.

11. With the aforesaid observations, the bail
application is allowed.

(Rajiv Roy, J)

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