

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31510 of 2023

Arising Out of PS. Case No.-204 Year-2022 Thana- DHARHARA District- Munger

ANKIT MISHRA @ BADAL SON OF UDAI MISHRA @ UDAY
LAXMAN MISHRA R/O VILLAGE- DURGAPUR, P.S.- DHARHARA
(HEMJAPUR), DISTRICT- MUNGER

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Avinash, Advocate

For the Opposite Party/s : Mr. Anand Kishore Choudhary, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 07-07-2023 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is an accused in connection with
Dharhara (Hemjapur) P.S. Case No. 204 of 2022 registered for
the offences under sections 452 and 376 of the Indian Penal
Code lodged on 01.11.2022 by the informant, Perna Kumari.

The prosecution case, in brief, is that informant
(victim) has filed a written complaint before the SHO Hamjapur
on 01.11.2022 alleging therein that her father went for treatment
of Kidney at Begusarai in September 2021. It has further been
alleged that she was in her house alongwith Grandmother
(Nani). When on one mid-night, Ankit Mishra (Petitioner), the
cousin brother of the informant entered in her room and



committed rape. It is further alleged that the accused again entered in her room after one or two days and repeated the act. It is further alleged that a week ago accused came again and tried to commit rape. When she raised alarm, the accused fled away. Accordingly, the FIR.

It has been contended by the learned Counsel for the petitioner that the girl was major as would manifest from the statement of section 164 of the Cr.P.C. (Annexure 2 to the petition) and from the averment made in the said statement, it is clear that it was consented.

It is his further submission is that he is a young boy, as student having no criminal antecedent and has already remained in custody since 02.11.2022 (paragraph 12 of the petition).

Learned APP for the State, on the other hand, opposes the prayer for bail stating that the allegation is grave.

Taking into account the submissions put forward by the learned Counsel for the petitioner about the statement of the girl under section 164 of the Cr.P.C., that the girl is 18 years old, the petitioner do not have criminal antecedent and is in custody since 02.11.2022, will ultimately face the trial, this Court is inclined to extend him privilege of bail.



Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Civil Court, Munger in connection with Dharhara (Hemjapur) P.S. Case No. 204 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.



With the aforesaid observations, the bail application is
allowed.

(Rajiv Roy, J)

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