

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31759 of 2022

Arising Out of PS. Case No.-103 Year-2022 Thana- KASBA District- Purnia

Ram Kumar Sharma @ Ram Kumar Son Of Ratan Sharma Resident Of Village - Madorghat, Sharma Tola Ward No.-12 P.S.- Kasba, Dist.- Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Suman Devi W/o Late Santosh Kumar Modi At.- Madarghat Mistri Tola Ward No. -02, P.S.- kasba, Dist.- Purnea.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Praveen Kumar Agrawal, Advocate
For the Opposite Party/s	:	Mr. Navin Kumar Pandey, APP
For the Informant	:	Mr. Dhiraj Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 14-02-2023 Heard learned counsel appearing on behalf of the petitioner, learned counsel appearing on behalf of the State and learned counsel appearing on behalf of Informant.

Let the defect(s), if any, be removed within a period of four weeks from today.

The petitioner seeks bail in connection with Kasba P.S. Case No. 103 of 2022 registered for the offence under Section 376 of the Indian Penal Code & 4 of POCSO Act.

The accused/petitioner is named in the F.I.R. and is in custody since 09.04.2022.

The allegation against the petitioner is to commit penetrative sexual assault upon the daughter of the informant,



aged about 14 years, while she was sleeping with family members in a closed room after lifting her in arm upto roof of the house.

Learned counsel appearing on behalf of the petitioner submitted that petitioner was falsely implicated in this case out of neighbourhood disputes and differences. It is further submitted that the implication was to create a legal pressure to negotiate marriage with petitioner. It is also submitted that from bare perusal of statement of victim, as recorded under Section 164 of Cr.P.C., as mentioned in para 30 of the case diary, it appears that mere an attempt was made on behalf of petitioner and it is not a case of penetrative sexual assault. It is also submitted that it is quite impossible to enter into a room, which was admittedly, locked from inside and lift the victim up to roof as alleged. While treavelling over the argument, it is submitted that nothing adverse can be gathered from the medical report of the victim, where no recent sexual assault was noticed. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and moreover, investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, duly assisted by learned counsel, Mr.



Dhiraj Kumar, appearing on behalf of the informant, while opposing the prayer of bail submitted that allegation of rape is specific against this petitioner.

Considering the facts and circumstances as mentioned above, as statement of victim recorded under Section 164 of the Cr.P.C., creates a doubt as to whether penetrative sexual assault was committed upon, coupled with the fact that charge-sheet has been submitted, let the petitioner, above named, is directed to be released on bail in connection with Kasba P.S. Case No. 103 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 eight Addl. Session Judge Cum Special Judge (POCSO), Purnea/concerned Court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

Archana/-
Veena/-

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