

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34025 of 2023

Arising Out of PS. Case No.-247 Year-2022 Thana- NALANDA District- Nalanda

VIKASH KUMAR son of Binay Yadav Village- Asthawan Ps- Asthawan
Dist- Nalanda

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Suresh Singh, Advocate

For the Opposite Party/s : Mr. Md. Anbzarul Haque Sahara, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 25-08-2023 Heard the parties.

The petitioner is in judicial custody in connection with Nalanda P.S. Case No.247 of 2022 instituted under Sections 363, 366A IPC and Section 4/6 PAC Act lodged on 13.11.2022.

As per the prosecution story, the informant alleged that his daughter went out and thereafter failed to return and upon search came to notice that the Vikash Kumar as also Rohit Kumar have taken her away on a Scooty. Accordingly, the FIR.

In this case, case diary was called for and the same has been received.

Learned counsel for the petitioner submits that though allegation of rape has been alleged by the victim girl under Section 164 of the Cr.P.C., she chose not to go for medical examination.



Learned APP though opposes the prayer for bail took this Court to both the statement of the girl under Section 164 of the Cr.P.C. as also the statement of the I.O. in paragraph-48 of the case diary.

Though under Section 164 of the Cr.P.C. the girl has stated that she was raped by Vikash Kumar (petitioner), in para-48 the I.O. has recorded that she was taken for medical examination before the Medical Officer where she chose not to undergo any such medical examination.

Though allegation of rape is there, in absence of medical examination which the girl herself refused to undergo considering the fact that he has remained in custody since 19.11.2022 (para-14 of the petition), he do not have criminal antecedent, as per the affidavit, he is only 19 years of age, a student, keeping him with hardened criminals in jail will no serve purpose, in view of the fact that charge sheet has already been submitted, 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/-(Rupees Ten Thousand) with two sureties of the like amount each in connection with Nalanda P.S. Case No.247 of 2022 to the satisfaction of learned Judicial



Magistrate, VIII, Biharsharif, Nalanda, subject to 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 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 the bail bonds;

(iv) 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.

(Rajiv Roy, J)

Prakash Narayan

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