

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.35329 of 2023**

Arising Out of PS. Case No.-337 Year-2022 Thana- LAURIA District- West Champaran

=====

MUKESH KUMAR @ SAGAR KUMAR S/O INDRASAN RAM @  
IGRASAN RAM R/O Village- Parsa Mathiya, P.S- Lauriya, Distt.- West  
Champaran.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

=====

**Appearance :**

For the Petitioner/s : Mr.Sanjeev Kumar Shrivastava, Advocate

For the Opposite Party/s : Mr.Abhay Kumar Roy, APP

=====

**CORAM: HONOURABLE MR. JUSTICE RAJIV ROY**  
**ORAL ORDER**

4      31-08-2023                      Heard learned counsel for the petitioner and learned  
APP for the State.

The petitioner is in judicial custody in connection  
with Lauriya P.S. Case No. 337 of 2022 registered under  
Sections 341, 323, 376, 504 and 506 of the Indian Penal Code  
lodged on 04.11.2022 by the informant, Manita Kumari.

As per the prosecution story, the victim girl has  
alleged that while she was attending the nature's call, the  
accused-petitioner came, lifted her, took her to his room and  
committed rape. As she protested, they also assaulted. Anyhow,  
she could come back to her room and when their family  
members approached the petitioner's family, they were abused  
and the families resorted to Panchayti which cause the delay in



lodging of the FIR.

Learned counsel for the petitioner submits that the occurrence is of 01.11.2022 whereas the FIR was lodged on 04.11.2022. Further, both of them were in relation and on that particular night also, call detail would show that just before the alleged occurrence, she was telephonically connected to the petitioner in fact, she had made a call.

In this case, earlier bench of this Court had called for the case diary as also the statement of the victim girl under Section 164 of the Cr.P.C. vide order dated 07.07.2023 and the same has been received.

Learned APP has drawn the attention of this Court to paragraph 97 in which the police has recorded the CDR details of the petitioner as also the victim girl between 14.10.2022 to 01.11.2022 and reflect that they were in regular conversation on almost everyday and on the fateful night, i.e. 01.11.2022, two calls were made by the victim girl at 21.48:14 hours (94 seconds) and 21.50:01 (338 seconds) which means that for next five minutes, she was hooked with the petitioner telephonically.

Learned counsel for the informant submits that the petitioner not only raped her but also assaulted which found



incorporated in the medical report.

This Court has also gone through statement of the victim girl under Section 164 of the Cr.P.C. which has been forwarded by letter no. 315 dated 18.08.2023 by the ADJ VII -cum- Special Judge, POCSO, Bettiah at West Champaran. As per it, they were in relationship and she was in the bed room of the petitioner in the night. Their family members awoke, started searching, came to the place of the petitioner, found her and after having seen their condition in the room asked the petitioner to marry her. As he refused that his family members will not accept it, this FIR.

Though the informant is minor considering the fact that has come in the case diary as also her statement made under Section 164 of the Cr.P.C. *prima facie*, this Court is satisfied that for the purpose of bail the petitioner who is in custody since 16.03.2023 and do not have criminal antecedent, deserves relief

Let the petitioner be released on bail on furnishing bail of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional District & Sessions Judge – VIIth cum Special Judge, (POCSO) West Champaran, Bettiah in connection with Lauriya P.S. Case No. 337 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/her *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/her 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 his 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)**

Jagdish/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

