

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35468 of 2023

Arising Out of PS. Case No.-431 Year-2022 Thana- SIDHWALIYA District- Gopalganj

RAJESHAR SINGH son of Late Zulum Singh @ Julum Singh Village- Chand
Parna Ps- Sidhwalia Dist- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajesh Roy, Advocate

For the Opposite Party/s : Mr. Ram Priya Sharan Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 11-07-2023 Heard learned counsel appearing on behalf of the parties.

The petitioner seeks bail in connection with Sidhwalia P.S. Case No. 431 of 2022 registered for the offence under Sections 341, 323, 376, 504 and 506 of the Indian Penal Code.

The accused/petitioner is named in the F.I.R. and is in custody since 05.12.2022.

The allegation against the petitioner is to commit rape upon informant/victim, aged about 45 years, who is co-villager of the petitioner.

Learned counsel appearing on behalf of the petitioner submitted that as petitioner sold out his land due to his daughter's marriage, which was given to informant/victim on rent (*Bataiya*), he has falsely implicated with present case. It is



submitted that petitioner apprehended on very next day of occurrence by police, but he was not examined under Section 53A of the Code of Criminal Procedure (in short Cr.P.C.) to collect evidence in terms of allegations. It is also pointed out that statement of victim under Section 164 of Cr.P.C. was recorded, where, she failed to explain the occurrence. It is further submitted that as per medical report, no evidence of sexual assault was noticed and moreover, half pant as recovered from house of this petitioner and also a white sari of victim were not sent for Forensic Science Laboratory to ascertain involvement of petitioner qua crime in question. 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 already submitted, as such, there is no chance of tampering with the evidence.

Learned APP, 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 petitioner was not examined under Section 53A of Cr.P.C. on his immediate arrest, where, no recent sexual assault/bodily injuries was noticed upon the informant/victim,



on her medical examination particularly in the background of allegation that she was assaulted, during course of occurrence by this petitioner coupled with the fact that charge-sheet has already submitted, let the petitioner, above named, is directed to be released on bail in connection with Sidhwalia P.S. Case No. 431 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 Judicial Magistrate-1st Class, Gopalganj/concerned court, subject to the condition as mentioned under Section 437(3) of the Cr.P.C with further conditions:

“(i)That petitioner shall not interact with victim during the trial in any manner or to influence any witnesses, in whatsoever manner, failing which, the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and



exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.

(iii) That one of the bailors of the petitioner shall be deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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