

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36467 of 2022

Arising Out of PS. Case No.-135 Year-2022 Thana- GOVINDPUR District- Nawada

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1. MUKESH KUMAR SON OF SURESH RAM R/O VILLAGE- J.P. NAGAR, P.S.- GOVINDPUR, DISTRICT- NAWADA
 2. DIWAN KUMAR SON OF RAM CHANDRA RAM R/O VILLAGE- J.P. NAGAR, P.S.- GOVINDPUR, DISTRICT- NAWADA

... .. Petitioner/s

Versus

1. The State of Bihar
2. NISHA KUMARI D/O SURENDRA RAM R/O VILL.- J.P. NAGAR, P.S.- GOVINDPUR, DISTT.- NAWADA

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Birendra Kumar
For the Opposite Party/s : Mr.Jagdhari Prasad

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

5 05-05-2023 Heard the learned counsel for the petitioners, learned APP for the State and the learned counsel for the informant.

This is an application for regular bail on behalf of the petitioner for the offences alleged under Section 376(D) of the Indian Penal Code and Section 6 of the POCSO Act, registered in connection with Govindpur P.S.Case No. 135 of 2022.

It is a case of gang rape. The prosecutrix is a girl of 14 years of age. As per the allegation, when she was going to watch *Ramlila*, but the petitioners dragged her towards a field,



administered her some substance mixed with water and thereafter they committed rape upon her. She came to her house and narrated her nightmarish ordeal to her family members and thereafter she was rushed to a hospital.

The learned counsel for the petitioners has submitted that petitioners are innocent and have falsely been implicated in this case. The statement of the victim has been recorded under Section 164 of the Cr.P.C., but she differed from her earlier version made in her *fardbayan*. In exact words, she did not support the allegation of rape in her statement under Section 164 of the Cr.P.C. He has submitted further that the victim was examined on the same day, but no sign of rape was found, as per the medical report.

On the other hand, the learned APP, assisted by the informant, has submitted that in the FIR the victim has stated that the petitioners dragged her towards a field and committed rape upon her. In her statement under Section 164 of the Cr.P.C. she has stated that the accused persons dragged her towards a hilly area and they administered some drink and she became unconscious. When she regained consciousness, she found herself in naked condition. Thereafter the accused persons fled away after leaving her to fend for herself.



The victim herself has lodged the FIR with the allegation that the accused persons committed gang rape upon her. Section 6 of the POCSO Act has also been added. The medical report has been mentioned on the back side of page no.12 of the case diary, which shows that the girl was examined on 02.05.2022.

Considering the above facts and circumstances, coupled with the allegation, I do not find it a fit case to grant the privilege of bail to the petitioners. It is accordingly rejected.

The report called for from the trial court has been receive, in which the learned trial court has reported that there is every likelihood to conclude the trial within a period of seven months.

It is expected that the trial shall be concluded within the time, as mentioned in the report of the trial court.

(Nawneet Kumar Pandey, J)

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