

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43062 of 2023

Arising Out of PS. Case No.-204 Year-2023 Thana- GAIGHAT District- Muzaffarpur

RAJESH KUMAR @ RAJESH KUMAR SAH SON OF DALU SAH
RESIDENT OF VILLAGE - MAITHI, P.S. - GAIGHAT, DISTRICT -
MUZAFFARPUR

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR, PATNA

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ritwik Thakur, Adv.
Mrs. Vaishnavi Singh, Adv.
For the Opposite Party/s : Mr. Md. Fahimuddin, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 22-08-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with Gaighat
P.S. Case No. 204 of 2023 registered for the offence under
Sections 366(A) and 376 of the Indian Penal Code and Sections 4,
6, 8 and 12 of the POCSO Act.

The petitioner is alleged to have committed rape upon
the minor daughter of the informant after abducting her.

Learned counsel appearing for the petitioner submits
that the petitioner is innocent and has falsely been implicated in
this case. He further submits that the allegation, as alleged in the
F.I.R., is false and fabricated and the petitioner has not committed
any offence. He further submits that on bare perusal of the F.I.R.,
it appears that the victim has been recovered and her statement



was recorded under Section 164 Cr.P.C. in which she has categorically stated that she had gone with the petitioner out of her sweet will and the petitioner has not committed any overt act with her. She has also not supported the allegation of commission of rape upon her levelled against the petitioner. She has also stated that the petitioner has never asked her to flee away from her house. Hence, no case of abduction is made out against the petitioner neither ingredient of Section 376 of the IPC is available on record. The petitioner is rotting in judicial custody since 03.06.2023.

Learned A.P.P. for the State opposed the prayer for bail of the petitioner and submits that the petitioner carries two more cases other than the present one and out of them he has been allowed bail in one case.

Considering the facts and circumstances of the case, let the, above named, petitioner be released on bail, **after framing of charge**, on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-6 -cum- Special Judge, POCSO-I, Muzaffarpur in connection with Gaighat P.S. Case No. 204 of 2023 with the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and



on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled by the Court below.

(2) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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