

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44075 of 2022

Arising Out of PS. Case No.-9 Year-2021 Thana- MAHILA P.S. District- Samastipur

Manoj Mahto, Son Of Suresh Mahto @ Suresh Pasi, R/O Village- Dadhiya
Asadhar, P.S.- Angarghat, District- Samastipur

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mukesh Kumar No.1, Advocate

For the Opposite Party/s : Mr.Harendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 08-02-2023 Let the defect (s), if any, as pointed out by the office,

be removed within a period of four weeks.

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

In the present case, the petitioner seeks bail in
connection with Mahila P.S. Case No. 09 of 2021, registered for
the alleged offences under Sections 376, 323, 324, 341, 504,
506/34 of the Indian Penal Code.

As per prosecution case, the petitioner and co-accused
Umesh Mahto caught hold of the informant when she went out
to ease herself and committed rape with her. On alarm being
raised by the husband of the informant, the petitioner and the
co-accused fled away from the spot. When the family members
of the informant went to the house of the petitioner, they were



assaulted by the petitioner and other co-accused persons.

The learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case. There is variance in the statement of the informant in the FIR and the statement recorded under Section 164 of Cr.P.C. In the FIR, she has stated about the petitioner and co-accused Umesh Mahto committing rape with her, whereas in her statement recorded under Section 164 of Cr.P.C., she has stated that the petitioner caught hold of her and the co-accused committed rape with her. Further, the informant was medically examined after two days of the occurrence, but no signs of rape were found on her body. The learned counsel further submits that the FIR has also been lodged after delay of two days and there is no satisfactory explanation for the same. The whole occurrence took place due to dispute over money lending. The petitioner is in custody since 24.04.2022 and the charge sheet has been submitted. The petitioner is having clean antecedent.

Learned A.P.P. opposes the prayer for bail submitting that the informant has specifically named the petitioner along with co-accused for committing rape with her and even in her statement recorded under Section 164 of Cr.P.C., she has named this petitioner who caught hold of her and the co-accused



committed rape. The witnesses examined during investigation have also supported the prosecution case. However, the learned APP concedes that three of the witnesses, who are not family members of either of the parties, have not supported the prosecution case regarding rape in paragraphs 68, 69 and 11 of the case diary.

Perused the records.

Having regard to the facts and circumstances and submissions made here-in-above and considering the doubtful nature of the case against the petitioner and further considering the submission of charge sheet and clean antecedent of the petitioner along with his period of custody, the petitioner is directed to be released on bail on furnishing bail bond of Rs.20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Samastipur, in connection with Mahila P.S. Case No. 09 of 2021, subject to the conditions mentioned in Section 437 (3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on



each and every date fixed by the court
below.

(iii) In case of absence on three consecutive
dates or in violation of the terms of the bail,
the bail bond of the petitioner will be liable
to be cancelled by the court concerned.

V.K.Pandey/-

(Arun Kumar Jha, J)

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