

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47400 of 2023

Arising Out of PS. Case No.-329 Year-2022 Thana- BELA District- Sitamarhi

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ASHIK KUMAR @ ASHIK BHANDARI SON OF DARESH BHANDARI
@ RAM DARESH BHANDARI RESIDENT OF VILLAGE- BAYA, PO-
PHULHUTTA, PS- BELA, DIST- SITAMARHI

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ritesh Kumar Narain Singh, Adv.

For the Opposite Party/s : Mr. Rina Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 19-09-2023 Heard learned counsel for the petitioner and

learned A.P.P. for the State.

The petitioner seeks bail in connection with Bela
P.S. Case No. 329 of 2022 dated 12.12.2022 registered for the
offence under Sections 376(DA) of the Indian Penal Code
and Sections 4, 6 and 8 of the POCSO Act.

The petitioner along with other co-accused forcibly
took the minor daughter of the informant in a room and
committed rape upon 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 the victim has been recovered and her statement was recorded under Section 164 Cr.P.C. in which she has alleged that the petitioner along with others have committed rape upon her. He further submits that on bare perusal of the statement of the victim, it transpires that He further submits that has caught hold the hand of the victim and another co-accused, namely, Sachin caught hold her legs and thereafter co-accused, Prakash has committed rape upon her. He further submits that no case under Section 376(D) is made out against the petitioner as the direct and specific allegation of commission of rape is attributed the co-accused, Prakash. He further submits that the police after investigation has submitted charge-sheet in this case against the petitioner. The petitioner is rotting in judicial custody since 02.06.2023.

Learned A.P.P. for the State on the basis of material available on record and the case diary vehemently opposed the prayer for bail of the petitioner and submits that the petitioner has also played pivotal role in the commission of rape upon the victim and his role of catching hold the hand of victim facilitating the co-accused, Prakash to commit rape



upon her is categorically narrated in the statement of the victim under Section 164 Cr.P.C. Besides that the petitioner carries one more case other than the present one.

Considering the facts and circumstances of the case, let the, above named, petitioner be released on bail, **after framing charge**, on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned A.D.J.-VI, POCSO, Sitamarhi in connection with Bela P.S. Case No. 329 of 2022 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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