

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50403 of 2023

Arising Out of PS. Case No.-104 Year-2023 Thana- RAJEPUR District- East Champaran

Naushad Alam S/O Mubarak Ansari R/O Village- Bhualidhih, Ps. Rajepur,
Dist. East Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Juhi Khatoon D/O Ghulam Rasool R/O Village- Bhualidhih, Ps. Rajepur,
Dist. East Champaran

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Ataul Haque, Advocate

For the Opposite Party/s : Mr. Syed Mojibur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 14-09-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. Petitioner seeks bail who is in custody since
15.05.2023 in connection with Rajepur P.S. Case No. 104 of
2023, F.I.R. dated 15.05.2023 for the offences punishable under
Section 376(III) of the Indian Penal Code and Sections 4,6 and 8
of the POCSO Act.

3. According to prosecution case, this petitioner is
alleged to have committed rape of the victim/informant.

4. Learned counsel for the petitioner submits that
petitioner has clean antecedent and he has falsely been
implicated in the present 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 offences as alleged in the



F.I.R. He further submits that the medical report of the victim suggests that the allegation as alleged in the F.I.R is false and fabricated and the police after investigation submitted the charge sheet against the petitioner. The petitioner is in custody since 15.05.2023.

5. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner and submits that the statement of the victim was recorded under Section 164 of the Cr.P.C. in which she has categorically stated that the petitioner has committed rape upon her and as per the medical evidence the age of the victim was found between 12½ years to 13½ years which suggests that the victim was minor at the time of occurrence but fairly submits that the medical report of the victim does not support the allegation as alleged in the F.I.R.

6. Considering the aforesaid facts and circumstances, let the petitioner, above named, be released on bail **after framing of charge** and on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 7th Additional Sessions Judge-cum-Special Judge, POCSO Act, East Champaran at Motihari in connection with Rajepur P.S. Case No. 104 of 2023, subject to



the following conditions:-

i. 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 absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

ii. 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.

iii. 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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