

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51827 of 2022

Arising Out of PS. Case No.-91 Year-2022 Thana- PUNAURA District- Sitamarhi

Motiur Rahman @ Moti Ansari Son of Late Saleem Ansari Resident of
Village - Mirzapur, P.S.- Punaura, District - Sitamarhi (Bihar).

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vikram Anurag, Advocate.
Mr. Abhijeet Abhigyan, Advocate.
For the Opposite Party/s : Mr. Dilip Kumar No. 1, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 15-02-2023 Learned counsel for the petitioner is permitted to
remove the defect(s), as pointed out by the office, within a
period of four weeks from today.

Heard Mr. Vikram Anurag, learned counsel for the
petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with Punaura P.S. Case No. 91 of 2022, registered
for the offences punishable under Sections 376, 504, 506/34 of
the Indian Penal Code and Section 4, 6 of the Protection of
Children from Sexual Offences Act, 2012.

The prosecution case is based on the written report of
the informant alleging therein that on 29.04.2022 in the evening
when the minor girl of the informant went to the Mango



Orchard, the petitioner finding her alone took her behind the bush at the point of knife and committed rape on her. When victim raised *hulla*, other villagers came there, however, noticing the villagers the petitioner fled away.

Learned counsel appearing on behalf of the petitioner submits that in fact this is not the case wherein any rape has been committed upon the victim rather on account of some dispute pertaining to plucking of Mango, the case has been instituted in order to learn a lesson to the petitioner. He further submits that during the course of investigation, statement of the victim was recorded under Sections 161 and 164 of the Cr.P.C. From bare perusal thereof, it appears that the victim girl did not support the prosecution case of commission of rape, apart from the fact that the medical report also belies the prosecution case, wherein the doctor opined that it is difficult to say rape occurred or not. He next submits that the petitioner is a man of 68 years old, suffering from various ailments, and he is having a house in the orchard itself, hence, his presence at that place cannot be looked into in other ways. He lastly submits that the petitioner was also examined by the doctor and no injury has been found on the private part of the petitioner which also suggest that it is not a case of commission of rape. He lastly submits that the



petitioner being old man having fair antecedent has already remained in custody for over a period of nine months, and he is ready to give undertaking that he will fully cooperate in the trial.

Learned counsel appearing on behalf of the informant vehemently opposes the bail application and submits that even as per the statement of the victim recorded under Sections 161 and 164 of Cr.P.C. she has categorically stated that the petitioner outraged the modesty and committed indecent behavior and also on the point of knife unclothed her.

On the other hand learned APP for the State also opposes the bail application.

Regard being had to the submissions made on behalf of the parties and considering the statement of the victim recorded under Sections 161 and 164 of the Cr.P.C., wherein she has not supported the prosecution case of commission of rape, coupled with the age of the victim and the medical report and the period of custody, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge-VI-cum-Special Judge, POCSO, Sitamarhi, in connection with Punaura P.S. Case No. 91 of 2022, subject to the condition that



one of the bailors will be the close relatives of the petitioner
with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the
trial.

(ii) He will remain present on each and every date of
trial till disposal of the case.

(iii) He will not try to tamper with the evidence or
intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates
without any cogent reason, his bail bonds will liable to be
cancelled.

(Harish Kumar, J)

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