

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55783 of 2022

Arising Out of PS. Case No.-21 Year-2022 Thana- MAHILA P.S. District- Madhepura

Bablu Paswan S/O Sitaram Paswan Resident of village- Kushha, Ward No-06, P.S.- Kumarkhand, District- Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Advocate.

For the Opposite Party/s : Mr. Mohammad Sufyan, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 22-02-2023 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. Sharda Nand Mishra, learned counsel for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Madhepura (Mahila) P.S. Case No. 21 of 2022, registered for the offences punishable under Sections 448, 341, 323, 376, 504, 506/34 of the Indian Penal Code.

The prosecution case is based on the written report of the informant alleging therein that on 07.05.2022, while she was



sleeping in her room, in the meantime the petitioner entered into the room and committed rape upon her. It is further alleged that when the informant raised alarm, the petitioner fled away, however, he has been identified by the villagers in the electricity light.

Learned counsel appearing on behalf of the petitioner submits that from the FIR, it would be evident that the occurrence has taken place on 07.05.2022, but surprisingly the FIR has been instituted on 10.05.2022 after a delay of three days but no plausible explanation has been given. He next submits that the informant has been medically examined by the doctor, however, no sign of rape or any internal and external injury, over the private part, has been found. Further submission has been made at the bar that after sometime the informant has filed a petition before the court below that as on the alleged date of occurrence, there was darkness, hence she could not recognize anyone, but only on suspicion the name of the petitioner has been alleged, though later on she came to know that on the alleged date of occurrence petitioner was not even present in the village. He also submits that the informant has also refused to give her statement under Section 164 of Cr.P.C. and moreover the petitioner having fair antecedent, is in custody since



11.05.2022.

On the other hand learned APP for the State vehemently opposes the bail application and submits that from the materials on the record, it appears that the informant has gained over by the petitioner and other persons.

Regard being had to the submissions made on behalf of the parties and considering the delay in lodging of the FIR coupled with the subsequent statement of the informant and the fact that she refused to give her statement under Section 164 of Cr.P.C., 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 Sub-Divisional Judicial Magistrate, Madhepura in connection with Madhepura (Mahila) P.S. Case No. 21 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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