

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58851 of 2022

Arising Out of PS. Case No.-2 Year-2019 Thana- MAHILA P.S. District- Lakhisarai

Bittu Kumar Son Of Rudal Mahto R/O Village- Khawachandra Tola, P.S.-
Medni Chauki, District- Lakhisarai.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Prabhakar Kumar, Advocate

For the Opposite Party/s : Mr. Rajendra Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

7 18-05-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Petitioner seeks bail, who is in custody since
08.04.2019 in connection with Mahila P.S. Case No. 02 of 2019,
F.I.R. dated 23.01.2019 for the offences punishable under
Sections 376/34 of the Indian Penal Code and Section 4, 12 of
the POCSO Act.

According to prosecution case, on the basis of written
report of the informant stating therein that when the informant
along with other family members had gone for peas plucking to
farm at 11:30 A.M. on 22.01.2019. At 03:00 P.M. she comes
back from her farm, she found her daughter was not at home.
When she searched, she listen the voice of crying her daughter
then she went to the house of Rudal Mahto and saw that Bittu



Kumar is committing rape with her daughter. After that she tried to catch the accused but while attacking him Bittu Kumar ran away. She further alleged that out of said house, Sanjay Kumar was also standing on gate, he also saw him running away. After that she came to her house with her victim.

Earlier the bail application of the petitioner was rejected vide order dated 23.01.2020 passed in Cr. Misc. No. 4516 of 2020 with the direction that the learned court below is directed to expedite the trial.

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 petitioner has not committed any offence as alleged in the F.I.R. He further submits that the police after investigation submitted the charge sheet against the petitioner and the petitioner is in judicial custody since 08.04.2019.

Vide order dated 17.04.2023 a report was called for with regard to the present stage of trial. Report dated 20.04.2023 of the learned trial court reveals that till date only three charge sheet witnesses have been examined by the prosecution and the case is pending for the examination of the rest of the



prosecution witnesses.

Learned counsel for the petitioner further submits that in view of the report of the learned trial court that the trial is not concluded in near future and out of ten witnesses only three witnesses have been examined till date and the petitioner is in custody since 08.04.2019.

Considering the aforesaid facts and circumstances and report of the learned trial court as well as period of custody, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned A.D.J.-VI, Lakhisarai in connection with Lakhisarai Mahila P.S. Case No. 02 of 2019, subject to 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 absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled 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.

3. 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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