

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59582 of 2022

Arising Out of PS. Case No.-16 Year-2022 Thana- MAHILA P.S. District- Sheikhpura

CHANDAN KUMAR @ CHANDAN YADAV S/o Biru Yadav @ Viru Yadav
R/o Mohalla- Bangalipar, P.S. and Dist- Sheikhpura

... .. Petitioner/s

Versus

1. The State of Bihar
2. JINAT PARVEEN D/O Shahid Parvez R/o Bangali par (Ahiyapur) , P.S. and Dist- Sheikhpura

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mrs.Anita Kumari, A.P.P.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 20-01-2023 Heard the learned counsel for the
petitioner and the learned A.P.P. for the State.

The petitioner seeks regular bail in connection with Sheikhpura (Mahila) P.S. Case No. 16 of 2022, registered for the offence punishable under Sections 376(D), 341, 323, 504, 506, 387 and 379/34 of the Indian Penal Code.

The case of the prosecution, in brief, according to the informant, is that while she was going to the college to bring her admit card on 13.12.2021 at about 6:00 A.M., the co-accused including the petitioner herein had surrounded her,



snatched her mobile phone and gold locket chain, pressed her mouth and carried her in the premises of the government school at Bangalipar, where they had committed rape upon her one by one as also had videographed the said offence and then they had left her on the spot and fled away while threatening that if she discloses about the said incident, her videoclips shall be made viral.

The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case, is having a clean antecedent and he is languishing in custody since 26.04.2022. The learned counsel for the petitioner has submitted that charge sheet has already been submitted and the investigation is complete, qua the petitioner herein, hence there is no reason to keep the petitioner behind bars. Lastly, it is submitted that though the incident had taken place on 13.12.2021, but the F.I.R. has been lodged belatedly only on 25.04.2022, which indicates the falsity of the case of the prosecution.

Per contra, the learned A.P.P. for the State



has vehemently opposed the prayer for bail and has referred to the impugned order dated 28.09.2022 to submit that there are ample materials on record of the case to show the complicity of the petitioner in the heinous crime of gang rape committed by him and the other accused persons and only on account of the threat, the informant had not lodged an FIR earlier. It is also submitted that the statement of the victim girl had been recorded under Section 164 Cr.P.C. by the learned Magistrate about which details have been given in the impugned order dated 28.09.2022, from which it is clear that the victim girl i.e. the informant has clearly stated that the accused persons including the petitioner herein had committed gang rape with her and had also made obscene videos of the same as also had threatened her that they would make it viral in case she raises alarm or files a police case, hence delay in institution of the F.I.R. has been reasonably explained. It is next submitted that it has also been observed in the impugned order dated 28.09.2022



that the victim girl has stated in her statement made under Section 164 Cr.P.C. that she was blackmailed by the accused persons apart from having corroborated the alleged incident. The medical report also shows that sexual intercourse has been done apart from the fact that during investigation the police has also found the incident to be true against the petitioner and other accused persons and has also filed a charge sheet dated 22.06.2022 against the petitioner and others, whereafter cognizance has been taken by the learned S.D.J.M., Sheikhpura on 08.07.2022 under Sections 376(D), 341, 322, 504, 506, 387, 389/34 of the Indian Penal Code, hence the petitioner does not deserve the privilege of bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the materials available on record as also considering the facts noted in the impugned order dated 28.09.2022, this Court finds that the complicity of the petitioner



in the alleged crime is writ large from the records and he is *prima facie* involved in committing gang rape of the victim girl along with other accused persons, thus I am not inclined to grant bail to the petitioner, hence, the present petition stands dismissed.

(Mohit Kumar Shah, J)

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