

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.221 of 2022

Arising Out of PS. Case No.-57 Year-2021 Thana- MAHILA P.S. District- Saharsa

Bijay Kumar Son Of Ram Kishun Sah @ Ram Kishore Sah R/O Village-
Madheli, P.S.- Shankarpur, District- Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Krishna Prasad Singh, Sr. Advocate Mr. Bhaskar Shankar
For the Opposite Party/s :	Mr. Chandra Sen Prasad Singh, APP Mr. Pawan Kumar

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

6 19-01-2023 Heard Ld. Senior Counsel for the petitioner and Ld.

APP for the State.

The petitioner seeks bail in connection with Mahila
P. S. Case No. 57 of 2021, registered for the offences
punishable under Sections 376 and 313 of the Indian Penal
Code.

As per allegation, the petitioner took the informant
to Saharasa on 22.07.2021 in the name of her admission in
Part-I and committed rape upon her in his house.

Ld. counsel for the petitioner submits that the
petitioner is innocent and has falsely been implicated in this
case. He further submits that even as per the fardbeyan, the



alleged offence is falsified in view of the fact that as per the F.I.R., which has been lodged after 25 days of the alleged occurrence, the alleged offence was committed on 22.07.2021, which resulted into her pregnancy. However, as per the pregnancy test report, the foetus was found to be of six weeks and three days old at the time of the test. As such, the date of alleged rape goes to 20.06.2021, much prior to 22.07.2021, the date of alleged occurrence.

He further submits that the petitioner has been languishing in jail since 17.08.2021.

It has also been stated in paragraph no. 3 of the bail petition that the petitioner has no criminal antecedents.

It is also stated in paragraph no. 2 of the bail petition that the petitioner has not moved this Court earlier either for anticipatory bail or regular one.

However, Ld. APP for the State vehemently opposes the prayer of the petitioner for bail.

Considering the aforesaid facts and circumstances, particularly infirmity in the allegation, **this application is allowed**, directing the petitioner, above-named, to be



enlarged on bail on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Ld. SDJM, Saharsa, in connection with Mahila P. S. Case No. 57 of 2021, **after framing of charge, if not already framed**, on the following conditions:

(i) The petitioner will make himself available for interrogation by a police officer/court as and when required.

(ii) The petitioner will undertake that investigation/trial will not hamper on account of his absence or non-cooperation. He must be available to the police or the court whenever his presence is required.

(iii) The petitioner shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

(iv) In case, it is brought to the notice of the court below that the petitioner has any criminal antecedents, Ld. court below shall cancel the bail bonds of the petitioner after



hearing him and getting satisfied that the petitioner has concealed his criminal antecedents despite his knowledge of the same.

(v) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, Ld. court below shall cancel the bail bonds of the petitioner.

Ld. counsel for the petitioner is directed to remove all the defects, if any, pointed out by the office within a period of one month and the Registry is directed to issue the certified copy of this order only after removal of office objections.

(Jitendra Kumar, J)

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