

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.417 of 2023

Arising Out of PS. Case No.-54 Year-2022 Thana- PANDARAK District- Patna

Sanjay Kumar, S/o Late Mukesh Ravidas R/o Village- Gowasha, P.S.-
Pandarak, Distt- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Kashyap, Advocate
For the State	:	Mr. Ramchandra Sahni, APP
For the Informant	:	Mr. Suraj Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 22-03-2023 Learned counsel for the petitioner is permitted to remove the defect(s), if any, as pointed out by the office, within a period of four weeks from today.

Heard Mr. Ashok Kumar Kashyap, learned counsel for the petitioner, Mr. Suraj Kumar, learned counsel representing the complainant/informant and learned Additional Public Prosecutor for the State.

This is an application for grant of bail to the petitioner, who is in custody in connection with Pandarak P.S. Case No. 54 of 2022, registered for the offences punishable under Sections 376,120(B),420 of the Indian Penal Code.

The prosecution case is based on the complaint filed by the complainant/informant alleging therein that while the



informant's husband was sick at Madras, this petitioner on the pretext of accompanying her to Madras, took her to Rajgir and stayed in a hotel, where he committed rape upon her. It is further alleged that thereafter the petitioner took her to Rohtak and kept her confined in a room for 3 days and again she was subjected to rape at the hands of the petitioner.

Learned counsel appearing on behalf of the petitioner submits that from the FIR it would be evident that both the petitioner and the informant are next door neighbour and the alleged occurrence is said to have taken place in between 11.02.2022 and 14.02.2022, however, the FIR has been registered on 22.04.2022 and no plausible reason has been assigned for such huge delay, apart from the fact that the complaint does not bear the date and signature of the complainant/informant. He next submits that the petitioner is a student of intermediate and on the alleged date of occurrence on 11.02.2022 he had been appearing at intermediate examination. In support of the aforesaid submission, the Admit Card of the intermediate examination has been brought on record by way of Annexure-2. He next submits that the story as alleged in the complaint appears to be improbable, as once she was subjected to rape there was no reason for the informant to accompany the



petitioner any further and go to Rohtak. He lastly submits that the petitioner having fair antecedent is in custody since 12.09.2022 and now the charge-sheet has been submitted.

On the other hand, learned counsel for the informant vehemently opposed the bail application and submits that as the victim was subjected to rape on putting threat to life of her children and as such she had no occasion to make any hue and cry. He next submits that the absence of the signature and the date on the complaint does not falsify the prosecution case as on the basis thereof FIR has been instituted and the investigation has concluded.

Counsel for the State also opposed the bail application.

Regard being had to the submissions made on behalf of the parties and considering the unexplained delay in institution of the complaint and other infirmities crept in the complaint, apart from the fact that the petitioner has fair antecedent and the investigation is complete, 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 A.C.J.M.-1st, Barh, Patna in connection with Pandarak P.S. Case No. 54 of 2022,



subject to the condition that one of the bailors will be the close relative 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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