

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6840 of 2024

Arising Out of PS. Case No.-129 Year-2022 Thana- PUNAURA District- Sitamarhi

Ravi Shankar Kumar @ Bhola, S/o Vinod Paswan, R/o Village-Govind Fandah, P.S.- Punaura (at present, P.S.- Riga), Dist.- Sitamarhi.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Santosh Kumar, Advocate
For the State	:	Mr. Vinod Shanker Modi, APP
For the Informant	:	Mr. Saurabh Anand, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 17-05-2024 Heard learned counsel for the petitioner and

learned Additional Public Prosecutor for the State.

2. The accused/petitioner seeks bail in connection with Punaura P.S. Case No.129 of 2022 registered for the offences punishable under Sections 376, 420, 120-B read with 34 of the Indian Penal Code and Sections 6 and 12 of the Protection of Children from Sexual Offences Act.

3. The accused/petitioner is named in the FIR and is in custody since 07.06.2023.

4. Allegation against the petitioner is to commit rape upon informant, who at the time of occurrence was minor i.e. about 17 years, where between 01.04.2021 to 01.03.2022, on several occasions, after black-mailing the



victim, the petitioner established physical relations as to make the video viral of their intimate moment, which was captured on first occasion at Bihar Guest House, Sitamarhi.

5. It is submitted by learned counsel for the petitioner that victim/informant was in love affairs with the petitioner and when this fact came into knowledge of the parents/family members of the victim/informant, the present false case was lodged against the petitioner. It is submitted that the occurrence as alleged through FIR was between 01.04.2021 to 01.03.2022 and even three months thereafter, the present FIR was lodged, which suggest only an afterthought. It is pointed out that on the first date of occurrence i.e. 01.04.2021 as per FIR, the victim was 17 years and one month and by the time of lodging of FIR, admittedly, she was major i.e. more than 18 years. It is submitted that even the doctor upon medical examination of victim, found her between the age group of 18-20 years. While travelling over the argument, it is submitted that the victim in her statement as recorded under Section 164 of the Code of Criminal Procedure clearly stated that the petitioner



brought her before his parents and family members for the purpose of marriage, which was not finally executed due to non-approval of the parents/family members of the victim/informant. It is further submitted that medical report of victim/informant is not supporting/suggesting any occurrence like rape, which alleged to be committed upon her.

6. While concluding argument, it is submitted that investigation of this case has already completed, for which, charge-sheet has already submitted and, as such, there is no chance of tampering with the evidence and moreover the petitioner is a man of clean antecedent.

7. Learned APP duly assisted by Mr. Saurabh Anand, learned counsel for the informant while opposing the prayer of bail submitted that at the time of first occurrence, petitioner was minor and she was at 17 years. It is submitted that the allegation as raised through FIR in its totality supported by victim through her statement as recorded under Section 164 of the Code of Criminal Procedure. It is also submitted by learned counsel that non-



finding of injury does not lead to a conclusion *ipso facto* that rape was not committed upon, for the simple reason that rape is a legal finding not a medical one.

8. In view of aforesaid factual submissions and by taking note of nature of accusation where the present FIR was lodged after three months of the last alleged occurrence, where admittedly, at the time of lodging of FIR victim was major, coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 07.06.2023, accordingly, the petitioner, above-named, is directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-VI-cum-Special Judge (POCSO Act), Sitamarhi in connection with Punaure P.S. Case No.129 of 2022, subject to the conditions as laid down under Section 437(3) of the CrPC.

(Chandra Shekhar Jha, J.)

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