

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8423 of 2024

Arising Out of PS. Case No.-119 Year-2023 Thana- MUSRIGHRARI District- Samastipur

Komal Kumar S/o Sajay Rai R/o Patharghat, Mohanpur, Ward No. 3, P.S. -
Shahpur Potori, Dist. - Samastipur

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Lakkhi Devi, aged about 32 years (Female), W/o Mahesh Rai, R/o Gacchi
Tol, Rupauli, P.O. Rupauli Bujarg, P.S. Musharigharari, Samastipur-848132.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Rakesh Prabhat, Adv.
For the Opposite Party/s	:	Mr.Akbar Ali, APP
For the O.P. No.2	:	None

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

4 24-06-2024 Heard learned counsel for the petitioner and learned
APP for the State. Perused the case diary.

2. The petitioner seeks bail in connection with
Musrigharari P.S. Case No. 119 of 2023 instituted for the
offences under Sections 363, 366-A, 34 of the Indian Penal
Code.

3. As per First Information Report, an allegation has
been made against the co-accused Santosh Ram and Vinod Ram
of kidnapping the minor daughter of the Informant but, in the
statement of the victim girl made under Section 161 Cr.P.C. she
has made an allegation against Komal Kumar/petitioner of
kidnapping her as also making illicit sexual relationship with



her.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence as alleged against him and has falsely been implicated in the present case. He further submits that in the F.I.R., the petitioner is not named and the allegation of kidnapping is against the co-accused Santosh Ram and Vinod Ram but, after the recovery of the victim girl, her statement was recorded under Section 164 Cr.P.C. in which she has neither named anyone nor has raised any allegation against the petitioner. The medical report also does not support the prosecution case as the doctor has not found any sign of recent sexual assault. The petitioner has no criminal antecedent and is languishing in judicial custody since 20.08.2023 without any rhymes or reason. Charge-sheet has been submitted in this case.

5. On the other hand, learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner, stating that the offence alleged against the petitioner is serious in nature. The victim is a minor girl. The police has arrested the petitioner along with the victim girl and, in the statement made under Section 161 Cr.P.C., she has made specific allegation of committing rape against the petitioner though in the 164 Cr.P.C.



statement, she has not named anyone.

6. Considering the entire facts and circumstances of the case and taking into account the period of custody of the petitioner and the petitioner having no criminal antecedent as also considering the medical report not supporting the prosecution case, let the petitioner, abovenamed, be released on bail, *after framing of charge if not already framed*, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Musrigharari P.S. Case No. 119 of 2023, subject to the following conditions;

(i) One of the bailor(s) shall be the own/close family members of the petitioner.

(ii) The petitioner shall cooperate 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 in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(iii) If the petitioner tampers with the evidence or the witnesses of the case by intimidating/pressurizing the witnesses, during the investigation or trial, in that case, prosecution will be



at liberty to move for cancellation of bail of the petitioner.

(Rudra Prakash Mishra, J)

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