

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12027 of 2024

Arising Out of PS. Case No.-276 Year-2023 Thana- SAMASTIPUR District- Samastipur

Shahnawaz Ali Khan @ Shahnawaz Khan @ Shahnawaj Khan S/o Wazir Khan @ Wajir Khan Resident Of Village - Chaknoor Road, Dharampur, Ward No. 06, Town, Police Station - Samastipur, Dist. - Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Thakur Brajesh Singh, Advocate

For the Opposite Party/s : Mr. Madhura Nand Jha, APP

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

5 09-05-2024 Heard learned counsel for the petitioner and learned APP for the State and perused the case diary.

2. The petitioner seeks bail in connection with Samastipur Town P.S. Case No. 276 of 2023 instituted for the offence under Sections 376 & 34 of the Indian Penal Code and Sections 3/4 of the POCSO Act and Section 67B & 67C of the IT Act.

3. Prosecution case in short is that petitioner on the false pretext of drinking tea has committed rape upon the victim in the state of intoxication. It is further alleged that on 30-09-2023, petitioner made the naked video of the victim and threatened her to viral the same and on 12-10-2023 accused sent the photographs to the brother and mother of the victim.



4. It has been submitted on behalf of the petitioner that the petitioner is in custody since 17-10-2023. Petitioner bears one criminal antecedent, as per disclosure made in paragraph No. 3 of the bail application.

5. It has been further submitted by the petitioner's counsel that petitioner has been falsely implicated in the present case. It is submitted that there is delay in lodging of the FIR. It is also submitted that there is contradictory statement of the victim recorded under Sections 161 and 164 of the Cr.P.C. It is submitted that on the basis of medical examination, age of the victim is assessed to be 20 years or above and she is major. It is submitted that victim herself gave consent for establishing physical relationship with the petitioner. It is lastly submitted that charge sheet has already been submitted in this case.

6. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner. It is submitted that victim in her statement recorded under Section 164 of the Cr.P.C. has supported the allegation levelled against the petitioner, which fact finds mention in paragraph No. 29 of the case diary. Referring to paragraph No. 42 of the case diary, it is submitted that charge sheet has been submitted in this case under Section 376 of the IPC, Section 4 of the POCSO Act and



Section 67A and 67B of the IT Act.

7. Considering the aforesaid facts and circumstances of the case, there being direct allegation against the petitioner and taking into account the statement of the victim recorded under Section 164 of the Cr.P.C., this Court is not inclined to grant bail to the petitioner.

8. Accordingly, the prayer for grant of bail to the petitioner is **rejected**.

9. The Trial Court is directed to expedite the trial as expeditiously as possible without any undue delay and unnecessary adjournments.

(Rudra Prakash Mishra, J)

Raj Kishore/-

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