

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21087 of 2024

Arising Out of PS. Case No.-27 Year-2021 Thana- MAHILA PS District- Gaya

BIRENDRA MANJHI, SON OF NARESH MANJHI, RESIDENT OF
VILLAGE - SANDA GULZARBAGH, P.S. - TEKARI, DISTRICT - GAYA
... .. Petitioner/s

Versus

THE STATE OF BIHAR
... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vinod Kumar, Advocate

For the Opposite Party/s : Mr. Atul Chandra, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

4 03-05-2024

1. Heard learned counsel for the parties.

2. The petitioner has renewed his prayer for grant of regular bail in connection with Gaya Mahila P.S. Case no. 27 of 2021 registered under section 376D of the Indian Penal Code.

3. As per the prosecution case, the petitioner and one another accused are said to have committed rape on the informant.

4. Learned counsel for the petitioner submits that the earlier prayer for bail of the petitioner was rejected vide order dated 6.1.2023 passed in Cr. Misc. no. 18455 of 2022. In spite of the petitioner being in custody since 8.8.2021 and charge having been framed in the learned trial Court on 14.11.2022, there is no progress whatsoever in the trial and not a single witness has been examined on behalf of the prosecution. In support of his contention learned counsel refers to the entire order-sheet of the



learned trial Court from the date of framing of charge till the present date brought on record in the supplementary affidavit filed in the instant application. It is submitted that the petitioner be enlarged on bail. The petitioner undertakes to cooperate in the trial.

5. The application for bail is opposed by learned APP for the State.

6. A report was called for from the learned trial Court. As per the report received contained in letter no.223 dated 21.3.2024 of the I/C Additional Sessions Judge-II, Gaya, not a single witness has been examined on behalf of the prosecution inspite of summons being issued.

7. Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case it transpires that charge was framed against the petitioner in the case on 14.11.2022. Further from the photocopy of the certified copy of the order-sheet of the learned trial Court brought on record in the supplementary affidavit filed by the petitioner it transpires that from the date of framing of charge though the case has been taken up on fifteen dates and summons has also been issued for appearance of the witnesses, not a single witness has appeared nor been examined on behalf of the prosecution.



8. In the facts and circumstances of the case, taking into consideration the allegations in the FIR, the petitioner having remained in custody for about 2 years 9 months since 8.8.2021 and not a single witness having turned up nor been examined on behalf of the prosecution inspite of charge having been framed on 14.11.2022, the petitioner is directed to be enlarged on bail in connection with Gaya Mahila P. S. Case 27 of 2021 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-II, Gaya on the following conditions:-

(I) The petitioner shall remain physically present in the trial court on each date of the trial and shall cooperate in the trial.

(II) In case the petitioner remains absent on any single date or the learned trial court is of the opinion that the trial is being delayed due to non-cooperation on part of the petitioner, the learned trial Court may cancel the bail bond of the petitioner and take him into custody till conclusion of the trial.

(Partha Sarthy, J)

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