

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15065 of 2024

Arising Out of PS. Case No.-79 Year-2023 Thana- MAHILA P.S. District- Samastipur

Yashwant Kumar S/O Ram Shreshtra Ray R/O Village- Satpara Dholi, Sakara,
P.S- Sakara, Distt.- Muzaffarpur.

... .. Petitioner/S

Versus

1. The State Of Bihar Bihar
2. Xxx @ Xxx D/O Nand Kishor Sah @ Peku Sah R/O Karua, Ward No. 16,
P.S- Chakmahisi, Distt.- Samastipur Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Jitendra Kumar, Adv.

For the Opposite Party/s : Mr.Asha Kumari, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL ORDER

3 24-04-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks regular bail in connection with
Samastipur Mahila P.S. Case No.79 of 2023 lodged under
Sections 376D, 341, 342, 379, 420, 120B, 504 and 34 of the
I.P.C. read with Sections 4 and 6 of the POCSO Act.

3. As per the prosecution case, the F.I.R. has been
lodged against three unknown accused persons against whom
there is allegation that two persons have raped the victim in the
running vehicle which was given by the other accused persons.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and has committed no offence. He submits
that the charge has already been framed in this case and
evidence has taken place.

5. He further submits that the prosecutrix has narrated
in her evidence and disclosed the name of two accused persons
who have committed rape with her and she has also disclosed in



paragraph 7 of the evidence that she is not interested to punish the driver.

6. Counsel for the petitioner submits that petitioner is in custody since 23.08.2023 having clean antecedent.

7. Learned counsel for the State opposes the prayer for bail and submits that it is true that the victim has disclosed her wish before the Court, but the Court has not to decide the case as per the wish of the victim, the case has to be decided as per the eyes of the law.

8. Counsel further submits that in the cross examination made by the present petitioner, victim has categorically stated that it is the petitioner who was driving the van in which two persons have raped the victim.

9. In the present facts and circumstances of this case and the submissions made above, this Court is not inclined to grant bail to the petitioner. Therefore, the bail application of the petitioner is hereby rejected.

10. It has been submitted by counsel for the petitioner that he is suffering from HIV positive. As such, the Jail Authority is directed to check by doctor of Jail or any competent expert and make separate arrangement for the petitioner.

(Dr. Anshuman, J.)

Prakashmani/-

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