

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18877 of 2024

Arising Out of PS. Case No.-285 Year-2022 Thana- SHERGHATI District- Gaya

Akhilesh Kumar son of Shailendra Manjhi Village-Chitav Kala Tola
Neemhara, P.S.- Sherghati Dist- Gaya

... .. Petitioner/s

Versus

1. The State of Bihar
2. Lakhan Mandal son of Sukhdeo Mandal Village- Raja Bigha P.S.- Sherghati
Dist- Gaya

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr.Abhay Kumar Roy, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 12-07-2024 The present petition is by way of second attempt at the behest of the petitioner for grant of bail in connection with Sherghati P.S. Case No. 285/2022 (POCSO Case No. 56/2022), registered for the offences punishable under Sections 376 (D & B) of the Indian Penal Code and Section 6 of the POCSO Act, inasmuch as the earlier prayer of the petitioner for grant of bail was rejected by this Court vide order dated 11.01.2023 passed in Criminal Misc. No. 41444 of 2022.

2. The case of the prosecution, in brief, according to the informant, is that on 08.04.2022,



the informant along with his wife and his minor daughter, who is the victim of this case and is aged about 10 years, were sleeping on verandah and at about 02:00 a.m. on 09.04.2022, the informant woke up and found that there was no electricity and his daughter was also missing. It is further alleged that after sometime, he saw that the victim girl was coming from the wheat field and she was crying and blood was oozing out of her vagina and upon inquiry, she disclosed that three persons had caught her, taken her to the field, tied her mouth and eyes and committed rape with her one by one.

3. The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case, he is having a clean antecedent and he is languishing in custody since 15.04.2022. The learned counsel for the petitioner has tried to refer to the deposition of the victim girl made before the Ld. Trial Court, however, he has not been able to deny the fact that the same cannot be of any use at this stage inasmuch as this Court is not conducting a



summary/ mini trial.

4. *Per contra*, the learned A.P.P. for the State has submitted, by referring to the earlier order of this Court dated 11.01.2023 as also the impugned order dated 04.01.2024, that the present case is a case of gruesome rape committed by three accused persons including the petitioner herein, which is also apparent from the medical report, apart from the fact that the police had prepared a photograph identification memo, wherein, photographs of six persons were taken to the victim girl in the hospital and in the presence of Magistrate, police officials and other officials, videography was made and upon the victim girl being asked to point out the person who had raped her, she had put her thumb impression on three persons including the petitioner herein and had stated that they had committed rape with her, hence, it is submitted that the complicity of the petitioner in the alleged crime is writ large.

5. Having regard to the facts and circumstances of the case, considering the



submissions made by the learned counsel for the petitioner and taking into account the materials available on record, this Court finds that the complicity of the petitioner in commission of a heinous crime of brutal rape with a 7-8 years old minor girl, along with two co-accused persons, resulting in her sustaining grievous injuries on her private part, is writ large, apart from the fact that there is no change in circumstance so as to warrant re-consideration of the prayer of the petitioner for grant of bail, hence I am not inclined to grant bail to the petitioner herein, thus, the present petition stands dismissed.

(Mohit Kumar Shah, J)

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