

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No 277 of 2023

Arising Out of PS. Case No.-116 Year-2022 Thana- MAHILA PS District- Gaya

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Nishant Kumar Son Of Thakur Narmdeshwar Prasad Singh Resident of
Village - Sirnawan, P.S. - Wena, Distt. - Nalanda. At present posted in
Librarian in Ramchandra Singh Banmali Baba Kanya High School,
Chandchaura, P.S. - Bishnupad, Distt. - Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr Dheeraj Kumar, Advocate

For the Respondent/s : Mr Ganesh Prasad Singh, APP

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CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 20-07-2024

This revision petition has been preferred by the petitioner against the order dated 14.03.2023 in Mahila PS Case No 116 of 2022 registered for the offence punishable under Sections 323, 341, 376, 504, 506 of Indian Penal Code passed by learned SDJM, Gaya whereby and whereunder the learned SDJM, while allowing the application submitted under Section 167 (2) of Cr P C imposed a condition that bail will be effective till submission of chargesheet only.



2 According to the case of the prosecution, the victim lady aged about 35 years submitted a written complaint on 09.12.2022 alleging therein that on 08.12.2022 at about 9.20 hours, the accused petitioner called her inside the staff room and there he abused her, slapped her and also committed forcible intercourse with her. On the basis of said complaint, Mahila PS Case No 116 of 2022 dated 09.12.2022 for the offence punishable under Sections 323, 341, 376, 504, 506 of IPC has been registered. The petitioner/accused was arrested on 10.12.2022. After completion of 90 days, on 13.03.2023, an application under Section 167 (2) of Cr P C has been filed by the petitioner for granting him bail on the ground that no chargesheet has been submitted by the prosecution within the stipulated period, i e, 90 days. The said application has been allowed by the learned SDJM vide the impugned order. However, while allowing the application, the learned SDJM imposed the condition that the order of bail will be effective till the submission of chargesheet only. Thus, this petition has been preferred by the petitioner challenging the above part of impugned order.

3 Heard learned counsel for the petitioner and perused the impugned order and other materials available on record.



4 Undisputedly, on the basis of the complaint made by the complainant, the FIR was instituted for the offence punishable under Sections 323, 341, 376, 504, 506 of IPC and on 10.12.2022, the petitioner was arrested by the police. Within 90 days from his arrest, police failed to submit chargesheet (final report). Therefore, a petition under Section 167 (2) of the Cr P C has been submitted by the petitioner for grant of default bail which has been allowed by the learned Court below on the ground that petitioner has already completed 92 days in custody and chargesheet has not been filed. However, while granting the bail, the Court below imposed condition that the bail granted to the petitioner is effective till submission of chargesheet.

5 The law on this point is very clear. When the right of bail has occurred in favour of the petitioner/accused under Section 167 (2) of Cr P C, no such type of rider/condition can be imposed. If the chargesheet is not filed within the stipulated period of 60/90 days then a right occurs in favour of the accused for grant of bail. If right occurs and a petition for bail is allowed under Section 167 (2) of Cr P C then no such type of condition can be imposed as done by the learned SDJM, Gaya.

6 Thus, this part of impugned order is liable to be set aside.



7 Accordingly,, the petition is allowed. The condition imposed by the learned SDJM, Gaya in the order dated 14.03.2023, as mentioned earlier, is set aside.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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