

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26497 of 2024

Arising Out of PS. Case No.-223 Year-2023 Thana- BEERPUR District- Begusarai

Sikandar Rai @ Sikandara Rai S/o Ram Kishor Rai R/o Village- Egu Bari,
Ward No. 41, P.S.- Muffasil, District- Begusarai

... .. Petitioner

Versus

1. The State of Bihar Bihar
2. Rajan Kumar Son of Sri Balmiki Mahto Resident of Village - Kharmauli,
P.S. - Birpur, District - Begusarai

... .. Opposite Partys

Appearance :

For the Petitioner	:	Mr. Ashok Kumar, Advocate Mrs. Archana Sahi, Advocate
For the Opposite Party	:	Mr. Jagdhar Prasad, APP
For the Informant	:	Mr. Sandip Kumar Gautam, Advocate

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

3 28-08-2024 Heard learned counsel for the petitioner as well as

learned counsel for the informant and learned A.P.P for the

State.

2. The petitioner has preferred this application for
grant of regular bail in connection with Birpur P.S. Case No.
223 of 2023 dated 28.11.2023 registered for the offence
punishable u/s 376AB of the Indian Penal Code and Sections 4,
6 and 8 of the POCSO Act.

3. As per the prosecution case, the petitioner is alleged
to have committed rape on the informant's cousin who is aged
about 5 years. It is further alleged that the petitioner also



committed similar type of offence with another child who used to go to school in the same bus.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. Learned counsel has submitted that as per the para. 93 of the case diary, no evidence of recent sexual assault found on the person of the victim but genital assault was found on the basis of clinical examination. As per the para. 94 of the case diary, spermatozoa was not found. It is further submitted that the victim was medically examined and the Medical Board has submitted his report vide Reg. No. 391/ 28-11-2023 in which the Medical Board has opined that, no evidence of recent sexual assault found on the victim. Further, it is submitted that the petitioner was also medically examined and the Medical Board submitted report vide Reg. No. 392/ 28-11-2023 and submitted that (i) *it cannot be said with certainty that he can perform sexual act* (ii) *he is having well developed sexual character* (iii) *no any injury found over penis, scrotum, inner things and around the perineum*. The victim in her statement recorded u/s 164 of the Cr.P.C. has stated that the petitioner pressed his finger on the anal. The petitioner has clean antecedent as stated in para 3 of the bail petition. The petitioner is in custody since



28.11.2023

5. Learned A.P.P. for the State as well as learned counsel for the informant have vehemently opposed the bail petition of the petitioner by submitting that the informant's cousin is a minor girl.

6. Considering the aforesaid facts and circumstances of the case as well as the period of custody and the material available on the record, the petitioner above-named, is directed to be enlarged on bail on furnishing bail-bond of Rs.20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Court concerned, Begusarai in connection with Birpur P.S. Case No. 223 of 2023, with the condition ;-

(i). The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bond of the petitioner is liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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