

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32481 of 2024

Arising Out of PS. Case No.-169 Year-2023 Thana- DHANSOI District- Buxar

Sher Khan @ Sher Mohammad S/O Late Feku Hazam @ Fakhruddin Mir
R/O Village- Bharakhora, P.S- Dhansoi, Distt.- Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Victim (x) D/O Mumtaz Hajam R/O Village- Bharakhora, P.S- Dhansoi, Distt.- Buxar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Satyapal Singh, Adv.

For the Opposite Party/s : Mr.Umanath Mishra, APP

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

7 02-12-2024 Heard learned counsel for the petitioner and learned
APP for the State. Perused the case diary.

2. The petitioner seeks bail in connection with
Dhansoi P.S. Case No. 169 of 2023 instituted for the
offences under Section 376 of the Indian Penal Code read
with Section 4 of the POCSO Act.

3. As per prosecution case, the accusation against
the petitioner is of forcibly committing rape upon the minor
victim girl.

4. Learned counsel for the petitioner submits that
the petitioner is innocent and has committed no offence as



alleged against him and has falsely been implicated in the present case. He further submits that though the victim girl, in her statement made under Section 164 of the Cr.P.C., has made allegation of committing rape upon her but, from perusal of the medical report, it appears that the doctor has not found any sexual assault upon the body of the victim girl. The F.S.L. report also does not support the prosecution case as semen could not be detected in the vaginal swab, vulval swab or urethral swab. He further submits that the Medical Board has assessed the age of the victim girl as 16 years. The petitioner has no criminal antecedent and is languishing in judicial custody since 21.11.2023 without any rhymes or reason. Charge-sheet has been submitted in this case.

5. On the other hand, learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner, stating that the victim girl in her statement made under Section 164 Cr.P.C. has made direct allegation of rape upon the petitioner. The police, after completion of investigation, has submitted charge-sheet against the petitioner for offence under Sections 341, 354(B), 376, 506



of the Indian Penal Code and Section 4/6/8 of the POCSO Act. The offence alleged against the petitioner is serious in nature and, hence, he does not deserve bail.

6. Having heard learned counsel for the parties, this Court finds that though the victim girl in her 164 Cr.P.C. statement has made specific allegation of rape upon the petitioner but, the medical report and the F.S.L. report does not support the same. The petitioner has no criminal antecedent.

7. Considering the entire facts and circumstances of the case, let the petitioner, abovenamed, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Dhansoi P.S. Case No. 169 of 2023, subject to the following conditions;

(i) One of the bailor(s) shall be the own/close family members of the petitioner.

(ii) The petitioner shall cooperate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by



the Court and in the event of failure on two consecutive dates
without sufficient reasons, his bail bond shall be liable to be
cancelled by the court below.

(Rudra Prakash Mishra, J)

rishi/-

U		T	
---	--	---	--

