

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.33837 of 2024**

Arising Out of PS. Case No.-392 Year-2023 Thana- PUPRI District- Sitamarhi

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Jagmohan Kumar, Son Of Kamindra Sahni @ Kaminda Sahni, Village-  
Nayatola, Kharka Basant, Ps- Bokhra, Dist- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Ashok Kumar Jha, Advocate

For the Opposite Party/s : Mr. Anil Kumar Singh No. 1, APP

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**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**  
**ORAL ORDER**

3      31-07-2024                      Heard Mr. Ashok Kumar Jha, learned Advocate  
  
appearing on behalf of the petitioner and Mr. Anil Kumar Singh  
  
No. 1, learned Additional Public Prosecutor for the State.

2. The application for grant of bail to the petitioner  
who is in custody in connection with Pupri P.S. Case No. 392 of  
2023 registered for the offence punishable under Sections 376,  
506 and 34 of the Indian Penal Code.

3. Based upon the written report the prosecution  
alleges that while the informant was alone in her house and her  
husband was not present, in the mean time the petitioner  
alongwith co-accused Shambhu Kumar Rajak in a drunken  
position, having gun in their hand, entered in her house. It is  
further alleged that the petitioner caught her hand and forcibly  
brought her to the roof where the co-accused Shambhu Kumar  
Rajak committed rape upon her, whereas the petitioner was



keeping gun over her head.

4. Learned Advocate appearing on behalf of the petitioner referring to the FIR firstly contended that the incidence has taken place in the evening of 08.09.2023 and the husband of the informant came just in the morning of the next day, but surprisingly the FIR has been instituted after four days on 12.09.2023. No explanation for delay has been assigned except that the informant and his family members were terrified. It is further contended that during the course of investigation the statement of the husband of the informant was recorded in paragraph no. 7 of the case diary, wherein he has admitted the factum of enmity with the petitioner. He also disclosed that there was some transaction of money and the petitioner has accepted in the Panchayati that he will ensure payment to the informant, but the money has not been paid. Thus, referring thereto learned Advocate for the petitioner contended that the false implication of the petitioner cannot be ruled out. Even as per the FIR, the only allegation leveled against the petitioner is of keeping a gun over the head of the informant but, surprisingly, no FIR has been instituted under any of the provisions of the Arms Act. The statement of the victim was also recorded under Section 164 of the Code of Criminal Procedure wherein she has stated that on the fateful night she went to the police station but her statement has



not been recorded, which does not appear to be trustworthy. The medical report also does not corroborate the prosecution case. Moreover, the petitioner is a man of fair antecedent and he is in custody since 22.02.2024.

5. On the other hand, learned Additional Public Prosecutor for the State vehemently opposes the bail application and submits that the petitioner who had actively participated in the commission of rape and there is a specific allegation that he was putting his revolver over the head of the informant and taking benefit of that, the another accused person has committed rape upon her. The delay has also been explained in the FIR is the submission of learned Advocate for the State.

6. Regard being had to the submissions made on behalf of the parties and considering the nature of allegation and the factum of delay in lodging of FIR, coupled with the statement of the husband of the informant suggesting enmity between the parties and the fact that the investigation of crime is complete and the chargesheet has been submitted, coupled with the fair antecedent of the petitioner, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Pupri, Sitamarhi in connection with Pupri



P.S. Case No. 392 of 2023, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.
- (v) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

supratim/-

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