

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35122 of 2024

Arising Out of PS. Case No.-45 Year-2021 Thana- MAHILA PS District- Gaya

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Bipin Singh @ Bipin Kumar Singh @ Biku Son of Parsuram Singh, Resident
of Village -Patluka, P.S.- Dhangai, District - Gaya, Bihar

... .. Petitioner/s

Versus

1. The State of Bihar
2. Juhi Kumari Daughter of Late Dilip Singh through her mother Khushboo
Devi, Resident of Village -Patluka, P.S.- Dhangai, District - Gaya, Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Gopal Jee, Advocate
For the State : Mrs. Sangeeta Sharma, APP

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 04-10-2024 Heard the learned counsel for the petitioner and
learned APP for the State.

2. This is an application for grant of anticipatory bail in
connection with Gaya Mahila P.S. Case No.45 of 2021,
registered for the offences punishable under Sections 376-
D, 376-DA, 120-B, 506, 509 of the Indian Penal Code and
Section 6 of the POCSO Act.

3. The case of the prosecution, in brief, according to the
informant, is that on 12.10.2021, at about 1 p.m., in the



afternoon, when she had gone to tie her goat in the field, the accused persons, including the petitioner, had arrived there, surrounded her and raped her, as also the accused persons had videographed the said incident of rape.

4. The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case and he is having a clean antecedent. The learned counsel for the petitioner has further submitted that firstly, the police, during the course of investigation, has not found any evidence qua the petitioner herein, hence though the charge-sheet has been filed against the co-accused person, namely, Vikash Paswan, prima facie finding him to have committed rape with the informant/victim girl, however, as far as the petitioner and other two co-accused persons are concerned, they have not been sent up for trial and a final form has been filed qua them. Nonetheless, it is submitted that even if the statement of the victim girl, recorded by the learned Magistrate under Section 164 CrPC, is considered to be of any value, it is only the co-accused, namely, Vikash Paswan, who has been alleged, by the victim girl, to have raped her, however as far as the petitioner is concerned, he



has only been alleged to have videographed the said incident of the victim girl being raped by the co-accused person, namely, Vikash Paswan, hence the present case is a fit case for grant of anticipatory bail to the petitioner.

5. At this juncture, the learned counsel for the petitioner has submitted, by referring to paragraph no.12 of the present petition that the learned Trial Court, after examination of the victim girl and her mother, appears to have entertained an application filed by them, under Section 319 CrPC, which was allowed on 08.08.2023, and then the learned Trial Court has issued summons against the petitioner and other co-accused persons, hence the petitioner is apprehending arrest in the matter, thus, he be granted the privilege of anticipatory bail.

6. *Per contra*, the learned APP for the State has submitted that the accused persons, including the petitioner have engaged in commission of a heinous crime and a bare perusal of the statement made by the victim girl, under Section 164 CrPC, before the learned Magistrate, would show that though she has alleged that the co-accused person, namely, Vikash Paswan has raped her, however, it has also been alleged by her that the petitioner and other



two co-accused persons had videographed the incident, whereafter they had threatened her that in case she told anyone about the incident, they would make her video clip viral. The learned APP for the State has further submitted by referring to the case-diary that though the police has come to a conclusion, after investigation that no evidence has been found regarding the petitioner and other two co-accused persons having made video clip of the incident of rape, committed by the co-accused Vikas Paswan with the victim girl, however, at this juncture, the evidence of the prosecutrix, i.e. her statement made under Section 164 CrPC, before the learned Magistrate, is more than sufficient to *prima facie* show the complicity of the petitioner in the alleged occurrence. In fact, it is contended by the learned APP for the State that the scope of Section 376-D of the Indian Penal Code is so wide that commission of actual sexual act even by one accused person is sufficient to rope in the remaining accused persons in the offence of gang rape, hence in the present case, the role of the petitioner and other two co-accused persons, in the aforesaid occurrence, who are *prima facie* having complicity in the incident of commission of rape of



the victim girl by the aforesaid Vikash Paswan and are alleged to have videographed the entire incident, is sufficient to show that the petitioner has worked together with the rapiest and others to ensure that rape could occur without interference, thus, making rest of the co-accused persons, including the petitioner, equally culpable under the law, on the principle of having acted in furtherance of common intention/shared intention and having participated in the said occurrence. Hence, the learned APP for the State has submitted that the present case is, at least, not a case for grant of anticipatory bail.

7. Having regard to the facts and circumstances of the case, considering the submission made by the learned counsel for the parties and taking into consideration the materials available on record as also those available in the case-diary, this Court finds that the victim girl has, in her statement made under Section 164 CrPC before the learned Magistrate, levelled allegation against the petitioner of having videographed the incident of rape committed by the aforesaid Vikas Paswan with her, hence considering the materials available on record, this Court finds that *prima facie*, the petitioner is having complicity in the matter, and



at least, the present case is not a case for grant of anticipatory bail. Thus, I do not find any merit in the present petition, hence the same stands dismissed.

(Mohit Kumar Shah, J)

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