

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37282 of 2024

Arising Out of PS. Case No.-44 Year-2022 Thana- MAHILA P.S. District- Bhagalpur

Varun Choudhary @ Barun Kumar Son of Mandal Choudhary R/O VILL.-
CHOUDHARY TOLA, P.S. LODIPUR, DISTRICT BHAGALPUR

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Victim X D/o Ravindra Choudhary R/o vill - Amarpur, Chaoudhary tola, P.S - Lodipur, Distt. - Bhagalpur

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Syed Maslehuddin Ashraf, Advocate
For the Opposite Party/s : Mr. Satya Nand Shukla, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 11-11-2024 Heard the parties.

2. The petitioner is in custody in connection with POCSO Case No. 58/2023 (arising out of Mahila Thana P.S. Case No. 44 of 2022) for the offence punishable under sections 376, 506 and 34 of the Indian Penal Code and Section 4 of the POCSO Act lodged on 26.10.2022.

3. As per the prosecution story, the informant alleged that while she had gone to attend the nature's call, upon return, two unknown persons caught hold of her and one of them raped her. She came and narrated the story to her husband and mother-in-law. The husband showed the photographs in the mobile phone from which, she recognized this petitioner. Further, allegation is that this petitioner came to her house and threatened of dire consequences in case, any FIR is lodged.



4. In this case, Coordinate Bench had called for the case dairy, the statement of the victim girl and the medical report which are on record.

5. Learned counsel for the petitioner submits that though allegation has been made against this petitioner, the same is entirely different from the subsequent statement she has made under Section 164 of the Cr.P.C., according to which, after the alleged rape was committed, she came and informed to her mother-in-law. Subsequently, the petitioner came and talked to her mother-in-law whereafter she informed her that this is the accused who has raped her. Later, the husband came from Hatia whereafter he was also informed. He went to the house of the petitioner where he was abused. This followed the FIR.

6. It is his submission that two different versions have been made by the lady. One is narrating her ordeal to her husband and mother-in-law and the later, about informing the husband after recognizing the petitioner who had visited her house. This coupled with the fact that the medical report does not show any injury on her body.

7. Learned APP opposes the prayer for bail submitting that the FIR clearly shows that this petitioner has named her.

8. Learned counsel for the petitioner submits that he is already in custody since 05.12.2022 (paragraph-5 of the petition)



and further, charges have been framed on 02.05.2023. If given relief, he shall be diligently appearing in trial without fail.

9. Taking into account the aforesaid facts that has come on record inasmuch as two different versions have been narrated by the informant, one in the FIR and other in the statement made by her under Section 164 of the Cr.P.C., no injuries have been found, petitioner is in custody since 05.12.2022, charges have been framed as per the statement made by the petitioner in paragraph-6 of the petition and the undertaking given by him that he shall be diligently appearing in trial without fail, this Court is inclined to extend him the privilege of bail with conditions.

10. Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned Additional District and Sessions Judge, VI-cum-Exclusive Special Judge, POCSO, Bhagalpur, in connection with POCSO Case No. 58/2023 (arising out of Mahila Thana P.S. Case No. 44 of 2022) subject to the following conditions:

(i) one of the bailor should be the family member/relative of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive



dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every month till conclusion of the trial to mark his attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

11. Nothing recorded in this order shall be taken up for consideration in course of trial as the same has been observed only for considering the grant of bail.

(Rajiv Roy, J)

Adnan/-

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

