

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44795 of 2024

Arising Out of PS. Case No.-25 Year-2024 Thana- KADWA District- Katihar

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Amarjeet Kumar @ Amarjeet Biswas @ Amarjeet Kumar Vishwas Son of Shambhu Biswas @ Shambhu Nath Vishwas Resident Of Vill- Badwa Bari, P.O.- Bharvi, Via-Durgaganj, P.S.- Kadwa, District- Katihar, Bihar, Pin- 855105.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jibendra Mishra, Adv.

For the Opposite Party/s : Mr. Nirmal Kumar Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

3 25-09-2024 Heard learned counsel for the petitioner and learned APP for the State. Perused the case diary.

2. The petitioner seeks bail in connection with Kadwa P.S. Case No. 25 of 2024 (G.R. No. 442 of 2024) instituted for the offences under Sections 323, 376, 504/506 of the Indian Penal Code.

3. As per prosecution case, the accusation has been made against the petitioner of committing rape upon the Complainant.

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



due to dirty village politics. Both the parties are *Gotiyas* and next door neighbours. He further submits that the date of occurrence is 18.05.2023 but, complaint has been filed on 23.05.2023 i.e. after five days of the date of occurrence and the F.I.R. has been instituted on 26.01.2024 which itself falsifies the prosecution case. He further submits that the Panchayati was held among the Mukhiya, Sarpanch and other co-villagers in which the husband of the Informant and the Informant herself demanded Rs. 50,000/- from the family members of the petitioner regarding the alleged occurrence. He accordingly submits that the allegation of rape upon the petitioner by the Informant who is having two children on the instigation of her husband is nothing but, an attempt of extorting money from the petitioner and his family members. The medical report does not support the prosecution case as it has been mentioned therein that no mark of injury found on the person of the victim. No mark of injury was also found in her private parts and the hymen found old torn and. There was also no spermatozoa. There is also no independent witness to support the prosecution case. The petitioner has no criminal antecedent and is languishing in judicial custody since 04.03.2024 without any rhymes or reason.



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 petitioner is named in the F.I.R. and there is direct allegation of committing rape upon the petitioner. He further submits that the victim in her statement made under Sections 161 and 164 CrP.C. reiterated the allegation against the petitioner and, hence, he does not deserve bail.

6. Having heard rival contention of both the parties and considering the entire facts and circumstances of the case as also taking into account the period of custody of the petitioner and the petitioner having no criminal antecedent, 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 Kadwa P.S. Case No. 25 of 2024 (G.R. No. 442 of 2024), 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)

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