

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47779 of 2024

Arising Out of PS. Case No.-180 Year-2019 Thana- DHANARUA District- Patna

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Vikash Kumar Son of Sri Bharat Singh Resident of Village - Mirjachak, P.S.-
Dhanarua, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Kavita Kumari Daughter of Raju Vind P.S. - Dhanarua, District – Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sushil Jha, Adv.
For the Opposite Party/s : Mr. Jagdhar Prasad, APP

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

ORAL ORDER

5 28-10-2024 Heard learned counsel for the petitioner and

learned APP for the State. Perused the case diary.

2. Earlier, I.A. No. 01 of 2024 was filed by the

petitioner with respect to jointness of the O.P. No.2 with her

father and, vide order dated 07.10.2024 passed by a Co-

ordinate Bench of this Court, the same was allowed.

3. The petitioner has earlier moved before this

Court with a prayer for anticipatory bail which was disposed

of vide order dated 27.11.2019 passed by a Co-ordinate

Bench of this Court in Cr. Misc. No. 59660 of 2019 granting

liberty to the petitioner to surrender before the court below



and seek bail.

4. The petitioner seeks bail in connection with Special (POCSO) Case No. 83 of 2019 arising out of Dhanarua P.S. Case No. 180 of 2019 instituted for the offences under Sections 323, 506, 376 of the Indian Penal Code and Section 4 of the POCSO Act.

5. As per prosecution case, the accusation against the petitioner is of jumping over the thatched house, entering into the victim's house and, thereafter, committing rape upon the 15-years-old victim girl. It is also alleged that the petitioner has also threatened to kill her as also beat her.

6. 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 village politics. The Informant and the petitioner are co-villagers and almost neighbor and there is a dispute between them regarding passage of the drainage which is flows in the field of the maternal uncle of the petitioner. He further submits that except the aunt of the Informant, there is no other person to support the case of



the Informant except the hearsay witness. He further submits that the report of the medical board does not support the prosecution case. The Informant was examined at the Gardanibagh Hospital and, in the medical examination, no violence mark was found on the body or on the private part of the victim girl. He further submits that the statements of the victim girl recorded under Section 161 Cr.P.C. and 164 Cr.P.C. are contrary to each other and, thus, is not believable. The doctor has opined the age of the victim girl as 15-16 years. The petitioner has no criminal antecedent and is languishing in judicial custody since 02.04.2024 without any rhymes or reason.

7. 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 offence alleged against the petitioner is serious in nature. The police after completion of investigation has submitted charge-sheet against the petitioner under Sections 323, 506, 376 of the I.P.C. and Section 4 of the POCSO Act. The petitioner is named in the F.I.R. and there is specific and direct allegation of rape upon



the minor victim girl against the petitioner and, hence, he does not deserve bail of this Court.

8. Considering the nature and gravity of offence as also there being direct and specific allegation of commission of rape against the petitioner upon a minor victim girl, this Court is not inclined to grant bail to the petitioner.

9. Accordingly, the prayer for bail of the petitioner, above named, is rejected with a direction to the court below to expedite the trial.

(Rudra Prakash Mishra, J)

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