

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56565 of 2024

Arising Out of PS. Case No.-410 Year-2023 Thana- BAKHTIYARPUR District- Patna

SANTOSH KUMAR @ CHHOTE KUMAR @ CHHOTU KUMAR S/O
VINESHAR YADAV R/O VILLAGE- CHAMPAPUR, P.S-
BAKHTIYARPUR, DISTT.- PATNA.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. PRIYANKA KUMARI D/O SURESH SINGH R/O VILLAGE-
CHAMPAPUR, P.S- BAKHTIYARPUR, DISTT.- PATNA.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Harendra Kumar Singh
For the Opposite Party/s : Mr. Tapeswar Sharma

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 26-09-2024 1. Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner seeks bail in anticipation of his arrest
in a case registered for the offences punishable under Sections
341, 323, 376(3), 376(D), 379, 504 and 506 of the Indian Penal
Code and Sections 4 and 8 of the POCSO Act.

3. The learned counsel for the petitioner submits that
petitioner is a person with clean antecedent and has been falsely
implicated in the instant case by the informant. It is next
submitted that informant alleges that she fled with Suraj on
28.09.2023 on false assurance of marriage and reached near a
bridge situated at Four-Lane, where Suraj stopped the



motorcycle and called his friends including the petitioner and they all committed rape.

4. The learned counsel appearing on behalf of the petitioner submits that from perusal of the allegation as alleged in the F.I.R., it would manifest that the informant herself alleges that she was in love with Suraj and had eloped with him. It is next submitted that allegation of rape is false and fabricated for the reason that it does not appear probable that six persons would have raped the informant and informant would have been in a position to walk to the police station, which is situated seven kilometers away from the place of occurrence. The learned counsel next submits that similarly situated co-accused Bipin and Sanni had approached this Court seeking anticipatory bail by filing Criminal Miscellaneous No. 16157 of 2024 and the same was allowed by an order dated 29.07.2024. It is also submitted that in Criminal Miscellaneous No. 16157 of 2024, the Investigating Officer of the case was called for, who was present in the Court on 29.07.2024 with Forensic Lab Examination Report and had submitted that Suraj, Bittu and Ravi were arrested and their semen were sent for Forensic Examination and the Forensic Examination certified the presence of semen of Bittu and Suraj, but then, semen of Ravi



was not detected, further it was also submitted that the petitioner is evading arrest for long and there is specific allegation against him of committing rape along with Sanni Kumar.

The learned counsel submits that it was vehemently argued in Criminal Miscellaneous No. 16157 of 2024, after the submission of the Investigating Officer of the case was recorded that during the medical examination, the doctor did not find any external injury in front or back portion of the informant. Further, it was also opined that no rape was committed upon the informant and it was also submitted that had the informant been raped by six persons, then definitely the doctor would have found injuries on private parts of the informant, but then, no injury was found and the said submission of the learned counsel appearing in Criminal Miscellaneous No. 16157 of 2024 was not disputed by the learned A.P.P. and the Investigating Officer of the case that doctor has not found any external injury on private part of the informant and that rape was not committed.

7. The learned counsel for the petitioner further submits that petitioner will not abscond rather will cooperate in the investigation.

8. Learned A.P.P. for the State opposes the anticipatory bail application of the petitioner.



9. Considering the submissions made by the learned counsel for the petitioner and the fact that co-accused Bipin and Sanni have also been granted the privilege of anticipatory bail in Criminal Miscellaneous No. 16157 of 2024 by an order dated 29.07.2024 with certain conditions, the petitioner, above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks, are directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned A.D.J.-VI-cum- Special Judge, POCSO, Patna in connection with Special POCSO Case No.252 of 2023 arising out of Bakhtiyarpur P. S. Case No.410 of 2023, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

10. The application stands allowed.

11. However, it is made clear that in the event, if any application is filed by the Investigating Officer of the case before the learned trial Court bringing to its notice that petitioner, despite giving assurance to this Court, is not cooperating in the investigation or is not presenting himself as and when required, in that event, the learned trial Court shall be at liberty to cancel the bail bonds of the petitioner after



recording reasons.

12. The learned counsel appearing on behalf of the petitioner, at this stage, submits based on instruction that in the event, if charge-sheet is filed against the petitioner, the petitioner will cooperate in the trial also.

13. Let a copy of this order be sent to the concerned Police Station through the learned trial Court.

(Satyavrat Verma, J)

Rishabh/-

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

