

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56717 of 2023

Arising Out of PS. Case No.-50 Year-2022 Thana- MAHILA P.S. District- Lakhisarai

Mukesh Yadav S/O Dhaneshwar Yadav R/O Village- Chamdhara, P.S-
Ramgarh Chouk, Distt.- Lakhisarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 57590 of 2023

Arising Out of PS. Case No.-50 Year-2022 Thana- MAHILA P.S. District- Lakhisarai

Uday Yadav S/O- Ganga Yadav village- chamdhara ps-ramgarh chouk dist-
lakhisarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :
(In CRIMINAL MISCELLANEOUS No. 56717 of 2023)
For the Petitioner/s : Mr.Binod Murari Mishra, Advocate
For the Opposite Party/s : Mr.Amitesh Kumar, APP
Mr. Umesh Prasad, Advocate
Mr. Mritynjay Kumar, Advocate
(In CRIMINAL MISCELLANEOUS No. 57590 of 2023)
For the Petitioner/s : Mr.Binod Murari Mishra, Advocate
For the Opposite Party/s : Ms.Renu Kumari, APP
Mr. Umesh Prasad, Advocate
Mr. Mritynjay Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

5 27-02-2024 Heard learned counsel for the petitioners, learned
counsel for the informant and learned A.P.P. for the State.

2. The petitioners seek regular bail in connection with
S. T. No. 363/2022 arising out of Lakhisarai Mahila P.S. Case
NO. 50/2022 lodged on 09.09.2022 under Sections 323, 376D,



and 506 of the Indian Penal Code.

3. As per the prosecution case, the petitioners have committed rape upon the informant, and on noise being made, the villagers came thereafter, the accused persons fled away.

4. Learned counsel for the petitioners submits that the petitioners are innocent and have committed no offence. In the statement under Section 164 of the Cr. P.C., the informant has narrated and supported the prosecution story and in clear terms submitted that these two persons have committed rape with her. He further submits that after framing of the charge, the statement of the informant as PW-2 was taken before the trial Court in which the informant completely denied identifying the accused persons (petitioners) who were present in the Courtroom on the said date. In her evidence, during the trial, she narrated that she is not capable of reading and writing and she only put her fingerprint. The content of the FIR has not been read over with her. About 164 Cr. P.C. statement also narrated the same thing in the cross-examination and she categorically stated about the present petitioners who were present in the Courtroom that these two petitioners were not involved in the occurrence. She has also disclosed that in the Court whatever the statement had been narrated by her before the Magistrate,



the same was at the instance of the other persons. The said evidence of the alleged victim has been annexed in the bail petition by way of a supplementary affidavit. The petitioners are in custody since 19.09.2022. The petitioner Mukesh Yadav in Criminal Miscellaneous No. 56717 of 2023 is accused in two more criminal cases, but in both the cases he has been granted bail whereas petitioner Uday Yadav in Criminal Miscellaneous No. 57590/2023 has no criminal antecedent.

5. Learned counsel for the State opposes the prayer for bail.

6. Learned counsel for the informant submits that he is present to oppose the bail but about the statement of his client during trial he submits that he has no idea of that.

7. In the present facts and circumstances of this case and the submissions made above, let the petitioners above named, be granted bail on furnishing bail bonds of Rs.30,000/- (Rupees Thirty thousand) each with two sureties of the like amount each to the satisfaction of S. T. No. 363 of 2022 (Arising out of Lakhisarai Mahila P.S. Case No. 50/2022) in connection with learned Additional Sessions Judge-cum-Special Judge SC/ST Act, Lakhisarai, subject to the conditions as laid down under Section 437(3) of the Code of Criminal Procedure.



8. The learned court below shall release the petitioner Mukesh Yadav (in Criminal Miscellaneous No. 56717 of 2023) on bail on being satisfied that he is not absconding in any of the cases as mentioned in paragraph no.3 of Criminal Miscellaneous No. 56717 of 2023 as under :-

(I) Ramgarh Chowk P.S. Case No. 704/2022

(ii) Ramgarh Chowk P.S. Case No. 556/2021

9. The Trial Court is directed to issue a show cause to the informant of the present case as under what circumstances she has lodged the present FIR with false allegation against the petitioners and upon enquiry take appropriate steps against the informant of this case.

(Dr. Anshuman, J)

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