

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61142 of 2024

Arising Out of PS. Case No.-73 Year-2022 Thana- KATEYA District- Gopalganj

Jitendra Kushwaha Son of Toofani Kushwaha Resident of Village - Pakadiya,
P.S.- Kateya, District - Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Sr. Advocate
	:	Mr. Rabish Kumar, Advocate
	:	Mr. Abhimanyu Kumar, Advocate
For the State	:	Mr. Syed Ehteshamuddin, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 13-09-2024 Heard Mr. Yogesh Chandra Verma, learned senior
counsel for the petitioner and Mr. Syed Ehteshamuddin, learned
A.P.P. for the State.

2. The petitioner seeks bail, who is in custody since
08.06.2022, in connection with S. Tr. No. 435 of 2022 arising
out of Kateya P.S. Case No. 73 of 2022, FIR dated 19.02.2022
for the offences punishable under Sections 376, 420, 342 and 34
of the Indian Penal Code and Section 4/6 of the POCSO Act.

3. Earlier the prayer for bail of the petitioner was
rejected vide order dated 27.09.2023 passed in Cr. Misc. No.
74591 of 2022. Thereafter, the petitioner has again moved
before this Court in Cr. Misc. No. 41396 of 2024 and the same
was permitted to be withdrawn with the liberty to move before



the learned Trial Court vide order dated 21.06.2024.

4. Learned senior counsel for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that from a bare perusal of the FIR it appears that the date of occurrence as alleged in the FIR is 12.03.2017 till the date of institution of the FIR and the present FIR has been instituted on 19.02.2022. He further submits that although there is specific allegation against the petitioner that he has committed rape upon the victim but it appears from the FIR that the relationship was consensual and between 2017 to 2022 the petitioner has not made complaint before any authority. He further submits that the petitioner is rotting in judicial custody since 08.06.2022 and trial is not concluded as yet.

5. Vide order dated 28.08.2024, a report with regard to the present status of the trial was called for. Report of the learned Trial Court dated 31.08.2024 reveals that out of seventeen charge-sheeted witnesses only twelve witnesses have been examined as yet and case is pending for the examination of remaining five charge-sheeted witnesses. Summons, B.W. and N.B.W. have already been issued against rest five charge-sheet witnesses but prosecution has not produced the aforesaid five



remaining witnesses as yet.

6. Learned senior counsel for the petitioner submits that in view of the report of the learned trial Court that there is no chance of early conclusion of the trial in near future and the petitioner is in custody since 08.06.2022 for more than two years.

7. Learned APP for the State, on the other hand, has vehemently opposed the prayer for bail of the petitioner.

8. Considering the facts and circumstances of the case, the report of the trial Court as well as period of custody, let the, above named, petitioner be released on bail on furnishing bail bond of Rs. 25,000/- (twenty-five thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-I, Gopalganj in connection with S. Tr. No. 435 of 2022 arising out of Kateya P.S. Case No. 73 of 2022 with the following conditions:-

(i) Petitioner shall co-operate 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 on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled by the Court below.

(ii) If the petitioner tampers with the evidence or the



witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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