

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62703 of 2024

Arising Out of PS. Case No.-94 Year-2023 Thana- BARIYARPUR District- Munger

Diwakar Kumar @ Major, Son of Jogan Yadav, R/V-Village- Tulshipur,
(Ghorghat), PS- Bariyarpur, Distt.- Munger

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kumar Kamal Nayan, Advocate

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

3 20-11-2024 Heard Mr. Kumar Kamal Nayan, learned Advocate for
the petitioner and learned APP for the State.

2. The petitioner seeks regular bail, who is in custody
in connection with S.T. No. 179 of 2024, arising out of
Bariyarpur P.S. Case No. 94 of 2023, registered for the offence
punishable under Section 376 of the Indian Penal Code.

3. Based upon the written report, the prosecution
alleges that on 18.04.2023, at about 6.30 P.M., while the
informant was returning to her house, in the meantime, the
petitioner caught her and forcibly committed rape on her.

4. Learned Advocate for the petitioner primarily
contended that since the prayer of the petitioner for bail has



already been rejected vide order dated 10.01.2024, passed in Cr. Misc. No. 61006 of 2023 and, as such, he is not pressing the bail application on merit. However, this fact cannot be ignored that the alleged occurrence took place on 18.04.2023, but surprisingly, the F.I.R. has been instituted after one month i.e. on 19.05.2023. The explanation of getting the dispute resolved through the Panchayat does not inspire any confidence in such type of incidence. It is next contended that while rejecting the prayer for bail of the petitioner, the learned Court directed to expedite the trial and conclude the same, but till date out of six prosecution witnesses, only three witnesses have been examined and there is no likelihood of conclusion of trial in near future. Now the petitioner has been incarcerated since 11.06.2023.

5. On the other hand, learned APP for the State vehemently opposes the prayer for bail and submits that there is specific allegation of commission of rape against the petitioner.

6. Regard being had to the submissions made on behalf of the parties and considering the delay in lodging of the F.I.R. and the period of custody, coupled with the fact that despite the observation made by this Court on the earlier occasion, till date the trial has not been concluded and there is no likelihood of conclusion of the same, let the petitioner,



named above, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-I, Munger in connection with S.T. No. 179 of 2024, arising out of Bariyarpur P.S. Case No. 94 of 2023, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this



purpose or in the name of verification.

(Harish Kumar, J)

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