

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61401 of 2024

Arising Out of PS. Case No.-940 Year-2023 Thana- ARARIA District- Araria

Md. Subhan @ Subhan Son of Uddin @ Badar Uddin R/o Village-Baswari,
Ward No. 07, P.S.-Araria, District- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kanchan Jha, Adv.

For the Opposite Party/s : Mr.Madhura Nand Jha, APP

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

ORAL ORDER

3 14-11-2024 Heard learned counsel for the petitioner and learned
APP for the State. Perused the case diary.

2. The petitioner seeks bail in connection with Araria
(Bairgachhi O.P.) P.S. Case No. 940 of 2023 instituted for the
offences under Sections 363, 365, 366 of the Indian Penal Code
and late on added Sections 379 and 376 of the I.P.C.

3. As per prosecution case, the petitioner called the
daughter of the Informant on 15.09.2023 and, thereafter, went
with her somewhere and, after 2-3 days, he left her on
18.09.2023 at Forbesganj.

4. 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.



He further submits that there is a great contradiction in the allegations made in the F.I.R. and the statement of the victim girl made under Section 164 Cr.P.C. which creates doubt in the prosecution case. The F.I.R. has been lodged after recovery of the victim girl which also creates doubt in the prosecution case as, in the F.I.R., no allegation of rape has been made against the petitioner. The medical report also does not support the prosecution case as no sign of fresh sexual assault has been detected. There is a delay of five days in lodging the F.I.R. without there being any plausible explanation for such delay. The petitioner has no criminal antecedent and is languishing in judicial custody since 11.12.2023 without any rhyme or reason. Charge-sheet has been submitted against the petitioner under Sections 363, 365, 366, 379, 376 of the I.P.C.

5. 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 petitioner is named in the F.I.R. and there is specific allegation of sexual assault against the petitioner. The victim girl in her statement made under Section 164 Cr.P.C. has made direct and specific allegation of committing rape against the petitioner. The offence alleged against the petitioner is serious in nature and, hence, he does not deserve bail.



6. Having heard rival contention of both the parties and considering the entire facts and circumstances of the case as also taking into account the period of custody of the petitioner and the petitioner having no criminal antecedent, let the petitioner, abovenamed, be released on bail, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Araria (Bairgachhi O.P.) P.S. Case No. 940 of 2023.

(Rudra Prakash Mishra, J)

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