

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59670 of 2023**

Arising Out of PS. Case No.-67 Year-2022 Thana- MAHILA PS District-
East Champaran

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BINESH MAHTO @ VINESH MAHATO @ DINESH MAHTO Son of
Bashudeo Mahto @ Basdev Mahato R/o vill - Mishrgram, P.S. -
Sangrampur, Distt. - East Champaran

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Kundan Rathore@ Kundan Kumar
For the Opposite Party/s : Mr.Ram Anurag Singh

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

8 05-01-2024 Heard Mr. Kundan Rathore @ Kundan Kumar, learned
counsel for the petitioner and Mr. Ram Anurag Singh, learned
counsel for the A.P.P. for the State.

The petitioner seeks bail in connection with Mahila P.S.
Case No. 67 of 2022 dated 04.12.2022 registered for the offence
under Sections 341, 323, 342, 376(DA)/34 of the Indian Penal
Code and 4 and 6 of the POCSO Act.

The petitioner alleged to have committed rape upon
the minor daughter of the informant.

Learned counsel appearing for the petitioner submits
that the petitioner, who is of clean antecedent, is innocent and
has falsely been implicated in this case. He further submits that
the allegation, as alleged in the F.I.R., is false and fabricated and



the petitioner has not committed any offence. He further submits that although the statement of the victim recorded under Section 164 Cr.P.C. in which she has supported the prosecution version but the medical examination does not support the allegation as alleged in the F.I.R. against the petitioner as well as the statement of the victim. He further submits that the co-accused, Manjeet Mishara, who has been booked in this case on the same set of allegations, has already been granted bail by this Court vide order dated 05.09.2023 passed in Cr. Misc. No. 29573 of 2023. He further submits that the police after investigation has submitted charge-sheet in this case against the petitioner. The petitioner is rotting in judicial custody since 09.12.2022.

Learned A.P.P. for the State vehemently opposed the prayer for bail of the petitioner and submits that as per the F.I.R, on the date of occurrence, the victim was minor and the statement of the victim has been recorded under Section 164 Cr.P.C. in which she has supported the case of the prosecution.

Considering the facts and circumstances of the case, let the, above named, petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned 6th Additional Sessions Judge- cum- Special Judge, POCSO, Motihari, East Champaran in connection with Mahila P.S. Case No. 67 of 2022 with the following conditions:-



(1) 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.

(2) 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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