

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73023 of 2022

Arising Out of PS. Case No.-103 Year-2019 Thana- MAHILA P.S. District- Patna

Nityanand Sharma @ Lallan Sharma S/o Sri Rama Kant Sharma R/o Village-
Chandaukhar, P.S.- Kurtha, Distt- Arwal (Bihar).

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr. Saket Gupta, Advocate
For the State	:	Mr. Md. Fahimuddin, APP
For the Informant	:	Ms. Priyam Kumari, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

7 10-04-2024 Heard learned counsel for the petitioner, learned counsel
for the informant and learned APP for the State.

2. By filing this application, the petitioner has renewed his prayer for bail in connection with Sessions Case No. 72 of 2020 arising out of Mahila P.S. Case No. 103 of 2019 registered for the offence punishable under Section 376(D) of the Indian Penal Code. He has one criminal antecedent and is in custody since 27.09.2019.

3. Earlier, the prayer for bail of the petitioner was rejected by this Court vide order dated 08.12.2021 in Cr. Misc. No. 67376 of 2021.

4. As per the prosecution story, on 04.08.2019 between 11:00 a.m. to 07:00 p.m., a meeting regarding financial market investment was organized at Hotel Grand Empire, Bailey Road, Patna. One co-accused Santosh Kumar Singh persuaded the informant (PW-1) at the railway station to come back and stay in the



Hotel for night. She allegedly handed Rupees Four Lac Fifty Thousand to said co-accused Santosh Kumar Singh. It is further alleged that in the Hotel room, this petitioner along with co-accused Pankaj Kumar and Santosh Kumar Singh was already present and this petitioner committed rape on her and the other co-accused videographed the same.

5. Learned counsel for the petitioner has brought on record the deposition of the prosecutrix (PW-1) to submit that in course of trial, the prosecutrix has improved upon her earlier version and that would show that she is not believable.

6. Learned counsel has strenuously argued that as per the medical report, the prosecutrix was carrying a pregnancy of ten weeks and if it is counted in relation to the date of occurrence, it will go back to the month of July, 2019 and not 04.08.2019 as alleged.

7. Learned counsel further submits that in her cross-examination, PW-1 has admitted that she lodged the present case on 26.09.2019. If the occurrence was of 04.08.2019 and the FIR has been lodged on 26.09.2019, there is an inordinate delay which would create a doubt on the authenticity of the offence.

8. It is lastly submitted that in any case, the petitioner has remained in custody for about four and half years, hence, he deserves privilege of bail during pendency of the appeal.

9. Learned counsel for the informant and the State have jointly opposed this application. It is submitted that the prosecutrix



has fully supported her case, it is a case in which the petitioner does not deny that the prosecutrix was carrying a pregnancy through him. It is further submitted that now trial is going on and it is likely to be concluded very soon.

10. This Court has been informed that out of total six chargesheeted witnesses, two have already been examined.

11. Having regard to the fact that thrice the prayer for bail of the petitioner has been rejected by this Court and at this stage, there is no change of circumstance, the trial has already begun and it is likely to be concluded soon, this Court is not inclined to grant privilege of bail to the petitioner.

12. The prayer for bail of the petitioner is refused.

13. Considering that the petitioner is in custody for about four and half years, it is high time for the learned trial court to ensure conclusion of trial at the earliest and, in any case, within a reasonable period.

14. This Court, therefore, directs that learned trial court shall not grant unnecessary adjournments in the case and all endeavours be made to conclude the trial as early as possible.

15. This application is disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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