

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82564 of 2023

Arising Out of PS. Case No.-190 Year-2023 Thana- DEEPNAGAR District- Nalanda

Niraj Kumar @ Aashik Kumar, Son Of Madhusudan Prasad @ Masudan Gope, Resident Of Village- Golapur, P.O.- Maghra, P.S.- Deepnagar, District- Nalanda

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mahendra Prasad Bhartee, Advocate

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

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 10-01-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. In this case, the petitioner is apprehending his arrest in connection with Deepnagar P.S. Case No. 190 of 2023, registered for the offences under Sections 376 and 323/34 of the Indian Penal Code and Sections 6/8 of the POCSO Act.

3. As per prosecution case, minor informant was kidnapped by co-accused Rakesh Kumar with the help of this petitioner. The informant was served with spiked drink and thereafter co-accused Rakesh Kumar committed rape with her.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in



this case. Petitioner has not committed any offence. There was love affair between the informant and co-accused Rakesh Kumar. The informant is a major girl aged about 19 to 20 years as per the Medical Board report dated 28.04.2023. The alleged occurrence took place on 19.04.2023 but the FIR was lodged on 27.04.2023 and the petitioner and others were falsely implicated. Delay in lodging the FIR has not been explained. The parents of the informant refused to keep her in their house and she was sent to Mahila Bal Grih Reformation Center, Mokama as she was not ready to implicate anyone. Thereafter, at the instigation of her father, she has lodged the present case. The police submitted charge-sheet only against co-accused Rakesh Kumar as the victim girl was held to be minor in the investigation on the basis of school certificate. Petitioner, who is cousin of co-accused Rakesh Kumar, along with sister and brother-in-law of Rakesh Kumar have not been sent up to face trial. However, the learned trial court on the basis of material before it, differed from the police report and took cognizance against this petitioner under Section 366A and 376 of the IPC. Petitioner is a young boy aged about 22 years and there is no involvement of the petitioner in any manner in the alleged occurrence. Apart from the present case,



the petitioner is accused in one more case.

5. Learned APP opposes the prayer for bail submitting that there is specific allegation against this petitioner that he helped the co-accused in kidnapping the minor girl and the allegation was reiterated by the victim girl in the statement recorded under Section 164 of the IPC.

6. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact that the police did not find the involvement of the petitioner and the petitioner has been arraigned as accused on the basis of cognizance taken by the learned trial court and further considering the possibility of false implication, let the petitioner above named, in the event of his arrest or surrender before the court concerned within a period of eight weeks from today, be released on bail, on furnishing bail bonds of Rs. 20,000/- (Rupees Twenty Thousand Only) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-II-cum-Special Judge POCSO, Bihar Sharif, Nalanda/court concerned in connection with Deepnagar P.S. Case No. 190 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and other following conditions:



- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below, if so required by the learned trial court.

(Arun Kumar Jha, J)

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