

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86469 of 2023

Arising Out of PS. Case No.-34 Year-2022 Thana- SUHAIL District- Gaya

=====

Akhilesh Bhuiyan @ Akhilesh Bharti S/O LATE RAMDAS BHUIYAN
VILLAGE- SEWTI TOLA, NOKHILA, PS. SUHAIL, DIST. GAYA.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Md. Javed Jafar Khan, Advocate

For the Opposite Party/s : Mr. Rajendra Prasad Nat, APP

=====

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

3 19-01-2024

Heard the parties.

2. The petitioner is in judicial custody in connection with Suhail P.S. Case No. 34 of 2022 instituted under sections 341, 342, 504, 506 and 376DA/34 of the I.P.C. and sections 4,6 of POCSO Act lodged on 06.11.2022 by the informant Bhagwaniya Devi.

3. Earlier the bail application of the petitioner was rejected vide Cr. Misc. No. 73576 of 2022.

4. Again, a fresh application was filed in which a report was called for on 05.01.2024 which has since been received vide letter no. 06 dated 10.01.2024 and as per it, out of nine witnesses, the victim has been examined.

5. As per the prosecution story, the mother of the informant, in the night of 31.10.2022, her victim minor daughter



went outside the house in order to attend the call of nature. Three persons were hiding under a tree who caught the victim, took her to a field situated about 300 meters away and committed rape. When the victim raised alarm, they assaulted her and further threatened her that if she disclose about the incident, she would be killed. Victim returned at 2 a.m. to her house and upon enquiry by her son, she disclosed about having been raped by the petitioners herein. Accordingly, the FIR.

6. Learned counsel for the petitioner submits that in her 164 Cr.P.C. statement, the allegation of rape has been assigned to two other persons namely, Randhir Bhuiyan and Sonu Bhuiyan and not on this petitioner. He further submits that even during the trial, the victim has narrated the same story inasmuch as only the allegation against the petitioner is that he had caught hold of her.

7. Taking into account the aforesaid facts as also that there is no sight of conclusion of trial in near future, the petitioner is in custody since 07.11.2022 (as stated in paragraph 12 of the petition) and per the undertaking given by the learned counsel for the petitioner, he will be diligently appearing in trial, this Court is inclined to extend him the privilege of bail with conditions.



8. Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned Exclusive Special Judge, POCSO-cum-Additional Sessions Judge-VII, Gaya, in connection with Suhail P.S. Case No. 34 of 2022 subject to the following conditions:

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every month till the conclusion of trial to mark his attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty



to take steps for cancellation of his bail bonds.

9. With the aforesaid observations, the bail application
is allowed.

(Rajiv Roy, J)

kiran/-

U		T	
---	--	---	--

