

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6216 of 2024

Arising Out of PS. Case No.-272 Year-2023 Thana- BANMANKHI District- Purnia

MD. IBRAR @ MD. IMRAN SON OF MD. NISAR AHMAD RESIDENT
OF DARJIPATTI, WARD NO. 10, POLICE STATION- BANMANKHI,
DISTRICT- PURNEA.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Viveka Nandsingh, Advocate
For the Informant	:	Mr.Amarnath Jha, Advocate
For the Opposite Party/s	:	Mr.Sadanand Paswan, APP

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

ORAL ORDER

5 08-05-2024 Heard learned counsel for the petitioner, learned
counsel for the informant, learned APP for the State and perused
the case diary.

2. The petitioner seeks bail in connection with Special
Case No.137 of 2023, arising out of Banmakhi P.S. case No.
272 of 2023 instituted for the offences under Sections 363, 365,
366A, 376 of the Indian Penal Code and Sections 04/06 of the
POCSO Act and Sections 3(i)(r)(s)/3(2)(V) of the SC/ST Act.



3. Prosecution case, in short, is that on 11.06.2023 the daughter of the informant went outside for walking but she did not return. It is further alleged that on 13.06.2023, the victim was found in the front of the shop of Land Registration Office and disclosed that this petitioner had committed rape with her.

4. Learned counsel for the petitioner submitted that the petitioner has falsely been implicated in the present case. Learned counsel further submitted that there is a delay of three days in lodging the FIR without plausible explanation, which in itself, raises doubt over the prosecution story. Learned counsel further submitted that the informant is habitual of lodging false cases against the innocent persons in order to harass them and in support of his submissions he has annexed Annexures P-3 and P-4 to the present bail petition. Learned counsel further submitted that the falsity of the case is further supported by the fact that sexual assault could not be established in medical examination of the victim (Annexure-2 to the present bail application). It has been submitted on behalf of the petitioner that the petitioner is in custody since 01.07.2023 and has no criminal antecedent.

5. Learned A.P.P. for the State and learned counsel for the informant vehemently opposed the prayer for grant of bail to



the petitioner and submitted that victim in her statement recorded under Section 164 of the Cr.P.C. has fully supported the case of the prosecution.

6. Considering the aforesaid facts and circumstances of the case, considering the habitual nature of the informant and her family members of lodging the false cases as also the period of custody undergone by the petitioner coupled with the fact that there is no sign of rape as per the medical report of the victim, this Court is inclined to grant bail to the petitioner.

7. Let the petitioner be released on bail, ***after framing of charge, if not already framed***, 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 Special Case No.137 of 2023, arising out of Banmakhi P.S. case No. 272 of 2023, subject to the following conditions:

(I) One of the bailors shall be own/close member of the family of the petitioner.

(II) The petitioner shall appear on each and every date fixed at the trial. In case of default in such appearance on two consecutive dates, the Trial Court will have liberty to cancel the bail bonds of the petitioner.



(III) 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.

(Rudra Prakash Mishra, J)

Alok Verma/-

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