

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71803 of 2024

Arising Out of PS. Case No.-78 Year-2024 Thana- JALALGARH District- Purnia

Ajay Mistary @ Ajay Sharma Son of Late Kamal Nand Mistari @ Kamal Mistary Resident of Village- Khata Hat Ekamba, P.S.-Jalalgarh, District -Purnea

... .. Petitioner/s

Versus

- 1. The State of Bihar
- 2. Gauri Kumari D/O- Ajay Mistary @ Ajay Sharma Resident of Village- Khata Hat Ekamba, P.S.- Jalalgarh, Distt.- Purnea

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ram Prawesh Kumar, Adv.
For the Opposite Party/s : Mr.Sanjay Kumar, APP
For the Informant : Mr. Amit Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

6 06-02-2025 Heard learned counsel for the petitioner and learned APP for the State as also counsel for the Informant. Perused the case diary.

2. The petitioner seeks bail in connection with Jalalgarh P.S. Case No. 78 of 2024 arising out of Spl. Case No. 135 of 2024 instituted for the offences under Section 376 of the Indian Penal Code and Section 3/4 of the POCSO Act.

3. As per prosecution case, the accusation against the petitioner is of committing forceful rape upon the minor victim girl.

4. Learned counsel for the petitioner submits that the



petitioner is innocent and has committed no offence as alleged against him and has falsely been implicated in the present case due to family dispute. The petitioner was arrested on the spot and nothing incriminating has been recovered from his conscious possession. The Informant is the daughter of the petitioner. The wife of the petitioner has also lodged a complaint before the Mahila Help Line for domestic violence in the year 2010 bearing CA No. 643 of 2010 against the petitioner and family members. The petitioner has never committed the alleged offence. The doctor has not found any sexual assault on the victim girl which creates doubt in the prosecution case. There is no any positive evidence against the petitioner showing his indulgence in the alleged offence. The petitioner has no criminal antecedent and is languishing in judicial custody since 31.05.2024 without any rhyme or reason. The charge-sheet has been submitted against the petitioner and the cognizance has also been taken.

5. On the other hand, learned A.P.P. for the State and the Informant have vehemently opposed the prayer for grant of bail to the petitioner, stating that the offence alleged against the petitioner is serious in nature. He further submits that though the medical report does not support the prosecution case but, the



victim girl, in her statements recorded under Sections 161 and 164 Cr.P.C., has supported the prosecution case. The victim girl is minor daughter of the petitioner.

6. Having heard rival contention of both the parties as also considering the nature and gravity of the offence, this Court is not inclined to grant bail to the petitioner.

7. Accordingly, the prayer for bail of the petitioner, above named, is rejected with a direction to the court below to expedite the trial and conclude the same expeditiously.

(Rudra Prakash Mishra, J)

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