

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79178 of 2024

Arising Out of PS. Case No.-63 Year-2024 Thana- KESARIA District- East Champaran

Lawkush Kumar @ Babu Saheb @ Law Kumar Son of Manoj Kumar Village-
Dilawarpur, P.S.- Keshariya , Dist.- East Champaran, Motihari

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sita Devi Son of Anil Das Village And P.O. - Dilawarpur, Ward No.4, P.S.-
Keshariya , Dist.- East Champaran, Motihari

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Advocate
For the Opposite Party/s : Ms. Usha Kumari 1, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 17-04-2025 Heard Mr. Sharda Nand Mishra, learned counsel for

the petitioner and Ms. Usha Kumari-1, learned Special Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Keshariya P.S. Case No. 63 of 2024, F.I.R.
dated 01.03.2024 for the offences punishable under Sections
366(A) and 376 of the Indian Penal Code as well as Sections 6,
8 and 12 of POCSO Act and Sections 3(i)(r)(s) of the S.C/S.T.
Act.

3. According to prosecution case, the minor
daughter of the informant aged about 13 years went missing
from her house in the night and she was found unconscious in

the woods and after gaining consciousness, she disclosed that the petitioner had fraudulently took her out of her house and raped upon her.

4. Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the petitioner has not committed any offences as alleged in the F.I.R. It transpired from the F.I.R. itself that the alleged occurrence, as stated in the Complaint Case which was filed by the present informant earlier on 27.01.2024 and as mentioned in the petition the date of occurrence is 04.12.2023 after delay of about 53 days. Apart from that the statement of the victim has been recorded under Section 164 of Cr.P.C. in which she has stated that the date of occurrence is 14.12.2023 instead of 04.12.2023 and she has not stated anything about the sexual assault with respect to the petitioner and she also refused for her medical examination.

5. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner.

6. Considering the aforesaid facts that the petitioner is having clean antecedent and the victim has not support the

case of the prosecution in her 164 Cr.P.C. statement and she also refused for her medical examination, let the petitioner, above named, in the event of arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 7th District and Additional Sessions Judge-cum-Special Judge, POCSO Act, East Champaran, Motihari, in connection with Keshariya P.S. Case No. 63 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/482(2) of the B.N.S.S., 2023 and with other following conditions:-

i. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

ii. 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.

iii. And further condition that the court below shall verify the criminal antecedent of the petitioner and

in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J.)

Jyoti Kumari/-

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