

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84320 of 2024

Arising Out of PS. Case No.-962 Year-2023 Thana- BARACHATTI District- Gaya

Ganesh Kumar @ Ganesh Malakar S/O Shankar Malakar R/O Village-
Sarwan Bazar, P.S- Barachatti, Distt.- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sonam Kumari D/O Manoj Bhagat R/O Village- Sarwan Bazar, P.S-
Barachatti, Distt.- Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Binod Kumar Sinha, Adv.
For the Opposite Party/s	:	Mr. Rabindra Kumar, APP
For the O.P. No. 2	:	Mr. Upendra Pd. Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

5 08-05-2025 Heard learned counsel for the petitioner, learned

A.P.P for the State and learned counsel for the opposite

party no. 2.

2. The petitioner seeks bail in connection with
Barachatti P.S. Case No. 962 of 2023 dated 01.11.2023
registered for the offence punishable under Sections 341,
323, 376, 504, 506/34 of the Indian Penal Code and Section
8/12 of the POCSO Act.

3. The prosecution case, in short, is that the
petitioner along with other co-accused persons took the
victim to Aurangabad where Ganesh Malakar (petitioner)



forcibly established physical relation with her in the night inspite of protest by the victim. Thereafter on 17/10/2023, they took her to Daltonganj and the petitioner put vermilion on the head (Maang) of the victim and married her without consent of the victim. Thereafter, the petitioner continuously committed rape upon the victim and threatened her that the victim would have to depose in his favour. On 19/10/2023, the accused persons left the victim near Sherghati Bus Stand and escaped from there.

4. Learned Counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. It is submitted that the date of occurrence is 16.10.2023 but the F.I.R. has been lodged on 01.11.2023 without any plausible explanation for the delay. It is also submitted that during course of investigation, only one witness i.e. father of the victim has been examined but the mother of the victim has not been examined. It is submitted that the Medical Board has assessed the age of the victim to be 18-19 years. It is submitted that during course of investigation, it has come that the victim also went two times with the petitioner from her house. It is further



submitted that the petitioner is a young boy aged about 20 years. Lastly, it has been submitted that the petitioner is in custody since 26.07.2024, having no criminal antecedent and charge-sheet has been submitted in the case.

5. Learned A.P.P for the State opposes the prayer for bail of the petitioner.

6. Learned counsel for the opposite party no. 2 vehemently opposed the prayer for bail of the petitioner. It is submitted that the victim is a minor girl aged about 14 years and her date of birth mentioned in school register is 03.09.2009. It is further submitted that the petitioner forcefully married with the victim without her consent.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail upon furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge POCSO-cum-Additional Sessions Judge-VII, Gaya in connection with Barachatti P.S. Case No. 962 of 2023, subject to the following conditions:-

1. Petitioner shall co-operate in the trial and shall



be properly represented on each and every date fixed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. One of the bailors will be his own blood relation, preferably father, mother, brother, sister and or his wife.

3. The bailor shall also state on affidavit that he will inform the court concerned if the petitioner is made accused in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse.

4. 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.

(Khatim Reza, J)

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