

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.89503 of 2024

Arising Out of PS. Case No.-36 Year-2024 Thana- MAHILA P.S. District- Sheohar

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Jitendra Gupta @ Jitendra Sah, aged about 32 years (Male), Son of Devi Lal Sah, Resident of Village - Kamrauli, P.S. - Piprahi, District -Sheohar

... .. Petitioner

Versus

1. The State of Bihar
2. Dharamshila Devi, Wife of Late Upendra Sah, Resident of Village - Kamrauli, P.S. - Piprahi, District -Sheohar

... .. Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Vijay Shankar Shrivastava, Advocate
For the State	:	Mrs. Sharda Kumari, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

4 08-04-2025 Heard learned counsel for the petitioner and learned A.P.P. for the State.

2. The petitioner seeks bail in connection with Mahila P.S. Case No. 36 of 2024 dated 09.11.2024 registered for the offences punishable under Sections 351(3), 65(1), 127(2) of the B.N.S., 2023 and Sections 4, 6 of the POCSO Act.

3. As per the prosecution case, on 30.10.2024 at 5.00 A.M., the minor daughter of the informant aged about 15 years was in her house and the informant went outside from her house and her younger daughter was alone in her house. In the meantime, the petitioner entered the house of the informant and committed rape on her minor daughter and had threatened that if



she disclosed the matter to her mother then both would be killed. It is further alleged that the victim due to fear, did not disclose anything to the informant when the informant returned to her house whereas the victim disclosed about the occurrence in the night to the informant that the petitioner had committed wrong act with her while she was cleaning the room. The victim further disclosed that the petitioner had committed rape on her. The informant disclosed about the occurrence to her son-in-law. Thereafter, a panchayati was done but the accused person did not obey the decision of the Panch.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. It is submitted that both parties are agnates (Gotias) and next door neighbours. It is further submitted that the alleged occurrence took place on 30.10.2024 as to when the F.I.R., has been lodged on 09.11.2024 and the delay in lodging of the F.I.R., no satisfactory explanation has been given by the prosecution. The victim is a major aged about more than 19 years. There is no eye witness to the alleged occurrence. The doctor has examined the victim and has opined that there is no evidence of recent sexual activity and no spermatozoa was found. Hence, the medical report does not support the



prosecution case. It is submitted that on the alleged date of occurrence, the victim had gone to her school and in this regard, a true copy of the application under the R.T.I. and Attendance Register for the month of October, 2024 of Class-IXth of the said school is annexed as Annexure-2 to the supplementary affidavit dated 13.02.2025 filed on behalf of the petitioner. It is further submitted that the informant as P.W. 1 and the victim as P.W. 2 in their cross-examination of depositions have not supported the prosecution case, annexed as Annexure-3 series to the supplementary affidavit dated 02.04.2025 filed on behalf of the petitioner. The petitioner has clean antecedent as stated in paragraph no. 3 of the bail petition. He is in custody in this case since 10.11.2024.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner.

6. Considering the aforesaid facts and circumstances of the case as well as the period of custody, the petitioner, above named, is directed to be enlarged on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, POCSO, Sheohar in connection with Mahila P.S. Case No. 36 of 2024 with further condition:-



(I) The petitioner is directed to remain physically present before the learned court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the petitioner are liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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