

IN THE HIGH COURT OF JHARKHAND AT RANCHI
(Criminal Miscellaneous Jurisdiction)
B.A.No. 8999 of 2022

Hemraj Ganjhu Petitioner
Versus
The State of Jharkhand Opposite Party

CORAM : HON'BLE MR. JUSTICE RATNAKER BHENGRA

For the Petitioner : Mr. Abhay Kumar Chaturvedy, Advocate
For the State : Ms. Snehlika Bhagat, APP

Order No. 06 /Dated: 4th November 2022

Heard Mr. Abhay Kumar Chaturvedy, the learned counsel for the petitioner and Ms. Snehlika Bhagat, the learned APP for the State.

The learned counsel for the petitioner submits that the allegations are of 20.04.2022, however the FIR is of 30.04.2022, hence the delayed FIR itself creates a doubt regarding the allegation. Counsel says that at the date of occurrence the parents could not present in the house or in the vicinity and therefore apart from the parents not being witnesses there is no other witness to the occurrence. After the girl was discovered lying on a pool of blood she was taken to hospital on 21.04.2022 and then it was revealed by the doctor about rape having taking place. Learned counsel further points out different stages and submits that she was taken to doctor regarding her treatment, again on the penultimate day she was again taken to doctor on 30.04.2022 and there it was disclosed by the child that Udi's father was responsible regarding the allegation which was revealed in the hospital. Learned counsel says that this is not possible because the alleged victim is niece of the petitioner and she would have informed in the first instance or in between the period from 20.04.2022 to 30.04.2022 regarding the involvement or complicity of the accused or the petitioner but this was not done so therefore the allegation made against the petitioner on 30.04.2022 is simply not factual. He further submits regarding the confession of the petitioner that it is well known that the confession would not have any evidentiary value and not admissible and therefore cannot be a legal basis. He further submits that there is no medical report even to show regarding the deteriorating health condition from the date of occurrence i.e. 20.04.2022 till 30.04.2022. Further he said that no spermatozoa was found on the swab and opinion of the doctor is that there is grievous injury which might be caused by sexual assault which counsel says does not indicate the offences which have been indicated in the records or of rape. He further argues that the alleged place of occurrence is near a house where a marriage ceremony was taking place and there was many people coming and going so it is simply not possible that the petitioner would commit this crime within the eyesight of so many persons.

Learned counsel for the State, on the other hand, has opposed the bail application and pointed out that the occurrence is of 20.04.2022 and she is a young girl only three years of age and she was grievously injured as has been indicated in the medical record and she was in a serious injured situation. She has pointed out the various occasions when the treatment was resorted to and also the treatment that was finally resorted to on 30.04.2022 when she finally revealed that the rape was committed by father of Udi or the petitioner. Counsel further says that in the state of health in which the victim was, she had not earlier revealed and when after certain number of days she had got better she has made allegation against the petitioner and the three years old girl cannot be lying. Counsel further says that the prosecution case has been supported in the statement under section 164 Cr.P.C. and the medical report fully supports the prosecution case.

Having heard both counsels, gone through the records of the case and in the facts and circumstances of the case, I am not inclined to release the petitioner, named above, on bail.

Accordingly, the bail application of the petitioner is rejected.

(Ratnaker Bhengra, J.)