

Court of Addl. Sessions Judge-1st, Saharsa

S.T. Case No. 221/2024

05.12.2024 The record is put up for order on discharge petition dated 22.07.2024 u/s 227 Cr.P.C filed on behalf of accused person namely 1. Sanjay Kumar. The rejoinder of the same has been filed by the prosecution on dated 05.08.2024.

Hazari has been filed on behalf of prosecution. Custody accused Sanjay Kumar produced with C/W.

By filing the discharge petition the Ld. Advocate submitted that the petitioner is named in the FIR and after cognizance case has been committed for trial and disposal. That intentionally case has been registered 376 IPC against 6 accused persons during the investigation charge sheet has been submitted against the accused Sanjay Kumar. That petitioner did not never intercourse with the victim. That informant daughter given to born child which illegal. That petitioner has filed petition before learned trial court for D.N.A. test but not sent. That victim girl brought false allegation against the petitioner. That the petitioner is doing keep her wife. That born child is not of the petitioner so he is. That the petitioner is ready to D.N.A test of the child. That the petitioner present at Delhi since 9 months alleged date of occurrence how he can with the victim girl. That the petitioner is completely innocent he is in jail custody since long time. It is therefore prayed that your honour would be graciously pleased to discharge the petitioner from the liability of the case and for this the petitioner shall ever pray.

By filing the rejoinder Ld. A.P.P opposed the petition and submit by that petition filed by the defence u/s 227 of the Cr.P.C. is not maintainable in the eyes of law. That Sour Bazar P.S. Case No. 629/2023 is instituted u/s 376/34 I.P.C. on the basis of written petition filed by informant Manju Devi and after investigation C.S. has been submitted u/s 376 I.P.C. against

petitioner accused Sanjay Kumar. That after perusal of case record, on perusal of F.I.R., case diary restatement of informant, statement of victim and other witness, statement of victim u/s 164 Cr.P.C., medical report cognizance has been taken against Sanjay Kumar u/s 376 I.P.C. That the contents of petition of the petitioner accused dated 22-07-2024 can not be considered at the stage of charge. All these things will be considered at the stage of final hearing. That there is decision of Supreme Court P.C.C.R., 2012 that at the stage of framing charge court is not concerned with the proof but even there is strong suspicion that the accused has committed an offence, the court can frame the charge against the accused. That there is sufficient materials available in the case diary for framing the charge against petitioner accused. That from the perusal of the case diary as well as the evidence recorded by the police u/s 161 Cr.P.C. and also 164 Cr.P.C. before magistrate are sufficient material to frame the charge against the accused petitioner. It is therefore prayed to reject the petition u/s 227 Cr.P.C. dated 22-07-2024.

Both sides has already been heard. Peruse the record along with material and documents available on record. The petitioner accused is named accused in F.I.R which was u/s 376, 34 I.P.C. As per F.I.R there is specific allegation against this petitioner accused which is fully supported by the informant and other witnesses in case diary. After investigation police has submitted charge-sheet against this petitioner and vide order dated 15.01.2024 the Ld. A.C.J.M.-II took cognizance of offence u/s 376 I.P.C against this petitioner accused person. Hence in the light of above mentioned facts and circumstances of this case and upon consideration of the record and material available on it. There is sufficient ground for proceeding against this petitioner. Hence the petition dated 22.07.2024 u/s 227 of Cr.P.C is hereby **rejected**. Put up on 23.12.2024 for framing of charge.

Dictated

A.S.J.-1st, Saharsa