

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.51554 of 2016

Arising Out of PS.Case No. -49 Year- 2016 Thana -DANDKHORA District- KATIHAR

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1. Khurshid Khan @ Chhotu Khan @ Chhotu S/o Farmud Khan resident of
Village - Magurjan, P.S. - Dandkhora, District - Katihar

.... Petitioner

Versus

1. The State of Bihar
2. Sabina Khatoon, d/o Manjur Khan, resident of Magurjan, P.S.
Dandkhora, district Katihar

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Md. Ataur Rahman, Adv.

For the State : Mr. Arun Kumar, APP 82

For the informant : Mr. Vivekanand Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

4 27-03-2017

Heard the learned counsel for the petitioner,
the informant and the State.

This is a petition for grant of regular bail for
offences under Sections 376, 506 and 34 of the Indian
Penal Code.

Allegation against the petitioner, in the first
information report, is that he committed rape against the
informant.

In the statement under Section 164 of the
Criminal Procedure Code, the informant stated that on
inducement of marriage the petitioner was in physical
relation with the informant. After eight months when the
informant became pregnant the petitioner refused to
marry.

The learned counsel for the petitioner submits
that the petitioner is in custody since 29.09.2016. This is
a matter of consensual sex, hence, no offence of rape is
made out, in the facts and circumstances of this case.

Even if it is assumed that offence of rape is not



made out, a prima facie offence of cheating under Section 420 of the Indian Penal Code is made out against the petitioner, inasmuch as, due to dishonest inducement of the petitioner, the informant was deceived to deliver her property. Section 22 of the Indian Penal Code defines movable property to include corporeal property of every description, except land and things attached to the earth or permanently fastened to anything which is attached to the earth.

Considering the nature of allegation against the petitioner, I am not inclined to enlarge the petitioner on bail.

The prayer for bail is **refused**.

The trial Court is directed to expedite the trial and conclude the same preferably within nine months from the date of receipt of a copy of this order, failing which the petitioner shall be at liberty to renew the prayer for bail. In case the petitioner expressed his willingness to marry with the informant before expiry of the aforesaid nine months, the Court below shall be at liberty to grant provisional bail to the petitioner and after ceremonization of marry between two, the Court below shall be at liberty to confirm the bail to the petitioner.

(Birendra Kumar, J)

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