

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4984 of 2022

Arising Out of PS. Case No.-42 Year-2021 Thana- CHAKAI District- Jamui

Uday Shankar Das, S/o Tulsi Das, Resident of Village- Dumma, P.S.- Chakai
and District- Jamui.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Akash Raj, APP

For the Opposite Party/s : Mr. Amar Prakash, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 27-07-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Chakai P.S. Case No. 42 of 2021 registered for the alleged offences under Sections 341, 323, 307, 376, 354, 504 and 34 of the Indian Penal Code.

The prosecution case is that the petitioner caught hold of the informant while she was on her way to attend invitation and took her to his home and tried to commit rape upon her and the co-accused persons named in the FIR helped him in his act. They also assaulted the family members of the



informant.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case and this fact is apparent from the contents of the FIR, restatement of the informant and the statement recorded under Section 164 of Cr.P.C. All the three statements are contradictory to each other. In the statement recorded under Section 164 Cr.P.C., the informant stated about she being taken from her house forcibly by the petitioner, which is not the case in the FIR. The fathers of the petitioner and the informant are agnates and there is long standing dispute of partition between the parties. There is a case and counter case between the parties and for the occurrence of same date, the petitioner's side has registered Chakai P.S. Case No. 43 of 2021 against father of the informant and other relatives for trying to commit rape upon mother of the petitioner. The Mukhiya was approached after the occurrence and when the matter was discussed to resolve the dispute, the informant's side registered the instant case. Learned counsel further submits that there is no external injury mark on the victim and the medical report falsifies the prosecution case. The petitioner and his other family members also received injuries and the same has been brought on record by filing a



supplementary affidavit. Learned counsel further submits that the charge sheet has been submitted in this case and the petitioner is in custody since 05.03.2021.

Learned APP opposes the prayer for bail submitting that there is specific allegation against the petitioner in the statement recorded under Section 161 Cr.P.C. as well as under Section 164 Cr.P.C. that he tried to commit rape upon the victim.

Perused the records.

Having regard to the submissions made hereinabove and considering the fact that there is property dispute between the parties and there is a case and counter case for the occurrence of same date with similar allegation and taking into account the absence of injury on the person of the victim, and considering the strong possibility of false implication and further considering the fact that the charge sheet has been submitted in this case and the petitioner is in custody since 05.03.2021, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-5th, Jamui in connection with Chakai P.S. Case No. 42 of 2021



subject to the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence for three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

V.K.Pandey/-

(Arun Kumar Jha, J)

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