

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5103 of 2022**

Arising Out of PS. Case No.-138 Year-2021 Thana- KATORIYA District- Banka

Lakshman Yadav Son of Sildhar Yadav @ Shridhar Yadav Resident of
Village- Lakshipur, P.S.- Katoriya, District- Banka

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Mukherjee, Advocate
For the Opposite Party/s : Mr. Abhay Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER**

3 19-09-2022 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with Katoriya
P.S. Case No. 138 of 2021 registered for the offence under
Sections 366(A) and 34 of the Indian Penal Code and charge
sheet has been submitted under Section 366(A), 376 and 34 of
the Indian Penal Code and Section 04 of the POCSO Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 04.10.2021.

The allegation against the petitioner is to kidnap the
daughter of the informant for the purpose of illicit intercourse,
where charge-sheet submitted under Section 376 of the I.P.C.



and also under Section 04 of the POCSO Act.

Learned counsel appearing on behalf of the petitioner submitted that due to previous enmities, petitioner has been falsely implicated in the present case. It is also submitted that the statement of victim as recorded under Section 161 and 164 of the Cr.P.C. are contradictory and appears to set out different allegations. It is submitted that the non-finding of injury upon victim is sufficient to gathered that rape was not committed upon. While concluding the argument, it has been submitted that it was a case of love affairs, where just to create a social pressure, present petitioner has been implicated in this case. Petitioner is a man of clean antecedent and moreover, investigation has been completed, for which, charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail submitted that victim is minor and, specifically, stated in her statement, as recorded under Section 164 of the Cr.P.C., that alleged rape was committed upon her by petitioner, while she was in captivity of this petitioner.

Considering the facts and circumstances as mentioned above, as victim specifically supported the allegation of rape



against this petitioner through her statement, as recorded under Section 164 of the Cr.P.C., this Court is not inclined to grant bail to the petitioner, for the present.

Accordingly, prayer of bail of the petitioner is rejected herewith.

Learned Trial Court is directed to proceed with the matter, by taking it on board, on daily basis, so as trial may conclude within specified time as prescribed under Section 35(2) of the POCSO Act, 2012.

Superintendent of Police, Banka is directed to produced the charge-sheeted witnesses, as and when directed by the Trial Court/Special Court, for expeditious disposal of trial, within specified time, as provided under law, as mentioned above.

(Chandra Shekhar Jha, J)

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