

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.6893 of 2022**

Arising Out of PS. Case No.-89 Year-2021 Thana- KATIHAR MUFFASIL District- Katihar

NITESH KUMAR MANDAL S/o- Shambhu Mandal R/o- Nayatola, P.S. -  
Muffasil, Distt. - Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Sanjeev Kumar Singh, Advocate  
For the Opposite Party/s : Mr. Satyendra Prasad, APP

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

4      17-10-2022                      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 Muffasil  
P.S. Case No. 89 of 2021 registered for the offence under  
Sections 376 of the Indian Penal Code and Section 4 of POCSO  
Act.

The accused/petitioner is named in the F.I.R. and is in  
custody since 17.06.2021.

The allegation against the petitioner is to commit rape  
upon the informant/victim, aged about 17 years.

Learned counsel appearing on behalf of the petitioner  
submitted that petitioner has been falsely implicated in the



present case, where negotiation of marriage failed for certain reasons. It is further submitted that informant/victim having love affairs with this petitioner and admittedly, the physical relation was established out of her own will. It is further pointed out that no injuries were found upon informant/victim, during her medical examination, which further falsify the allegation of rape. While concluding the argument, it is submitted that investigation of this case has been completed, for which, charge-sheet has already been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail, submitted that victim/informant specifically alleged this petitioner to commit rape upon her, while recording her statement under Section 164 of the Cr.P.C. It is further submitted that even as per medical report and school certificate, it appears that informant/victim is minor on the date of occurrence. It is also submitted that non-finding of injury suggesting sexual assault could not lead to a conclusion, *ipso-facto*, that rape was not committed upon, for the reason that rape is a legal finding not a medical one.

In view of the submissions, as made above, as victim specifically alleged against this petitioner to commit rape upon



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

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

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

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

**(Chandra Shekhar Jha, J)**

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