

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7148 of 2022

Arising Out of PS. Case No.-131 Year-2021 Thana- MAHILA P.S. District- Patna

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AMIT KUMAR SON OF SHARVAN KUMAR @ SHARVAN SAO R/O
MOHALLA- NAHRI DHAWALPURA, BAHARI DHAWALPURA PATNA
CITY, P.S.- BYPASS, DISTRICT- PATNA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rudra Deo, Advocate

For the Opposite Party/s : Mr. AC to A.G.

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 10-10-2022 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.

Supplementary affidavit has been filed by learned
counsel for the petitioner, during course of day and same is kept
on record.

The petitioner seeks bail in connection with Mahila
P.S. Case No. 131 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 11.11.2021.



The allegation against the petitioner is to commit rape upon informant/victim, aged about 16 years, while she was alone in her home.

Learned counsel appearing on behalf of the petitioner submitted that it is an admitted position that petitioner had love affairs with the informant/victim, where both were planning for their marriage. It is further submitted that due to certain disputes and differences, which were developed during course of their marriage negotiation, the present false case was lodged. It is further submitted that victim denied herself for medical examination, in support of her allegation. 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 specifically alleged against this petitioner to commit rape upon her while she was alone in her home, as per statement recorded under Section 164 of the Cr.P.C. It is further submitted that in want of medical report, it cannot be presumed that rape was not committed upon, as rape is legal finding not medical.

In view of the submissions, as made above, as victim,



who is minor, specifically alleged against this petitioner to commit rape upon her, duly supported by her statement 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.

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

S.S.P, Patna 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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