

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16085 of 2022

Arising Out of PS. Case No.-278 Year-2021 Thana- RUPASPUR District- Patna

Amritanshu @ Shivam S/o- Sri Sanjay Sharma Resident of Village -
Babhanlai, P.S.- Bihta, Distt.- Patna at present Quarter No. -69 (B),Azad
Nagar, Panipatt, Hariyana.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vijay Kumar Sinha, Advocate

For the Opposite Party/s : Mr.Binod Kumar, APP

For the Informant : Mr.Vishal Vikram Rana, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 30-11-2022 Heard learned counsel appearing on behalf of the
petitioner and learned APP 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
Rupashpur P.S. Case No. 278 of 2021 registered for the offence
under Sections 417, 376, 120(B), 504 and 506 of the Indian
Penal Code.

The accused/petitioner is named in the F.I.R. and is in
custody since 22.11.2021.

The allegation against the petitioner is to commit rape
upon informant/victim on the false pretext of marriage.

Learned counsel appearing on behalf of the petitioner
submitted that there is no occasion to marry with
informant/victim as alleged through FIR and, as such, petitioner



totally denies his marriage with informant/victim, as set out through FIR. It is further submitted that informant is in habit to lodge such false case under the promise of marriage and prior to this occurrence, informant also lodged FIR against two(2) persons almost with similar accusation. Learned counsel pointed out Para-57 of the case diary, where statement of hotel attendant is available, stating thereof that petitioner never entered into the room of the informant/victim, which was booked by informant herself, in the name of this petitioner. It is also submitted that victim was major at the time of occurrence, where nothing surfaced during the course of medical examination, which may suggest allegation as raised through FIR. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and, moreover, investigation of this case is complete, for which, charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP duly assisted by learned counsel for the informant, Sri Vishal Vikram Rana, while opposing the prayer of bail pointed out Para-9 of the case diary, where the statement of Manager of the hotel is available, stating thereof that petitioner was about one (1) hour with the informant/victim. It is submitted that even by taking note of Para-57 of the case diary,



as submitted, the presence of petitioner inside the hotel is admitted position. It is submitted that rape was committed upon the informant/victim inside the room of the hotel which is duly supported by victim through her statement as recorded under Section 164 of the Cr.P.C. and also during the investigation. It is submitted that non finding of injuries cannot lead to conclusion, *ipso facto*, that rape was not committed upon informant. It is also submitted that petitioner advancing threat to informant over her mobile on regular basis from different numbers, which was available to him inside the jail and for the said reason, when allegation found true, the petitioner was moved to cell, in isolation. It is further submitted that during the pendency of present bail petition to harm the social reputation of the informant, nude photos of victim was made viral by the parents of this petitioner, for which a proper complaint was lodged, where the matter is under investigation. It is also submitted that petitioner is intentionally delaying the trial by taking unnecessary adjournment, by pressing one or another petition before learned Trial Court.

In view of the facts and circumstances as mentioned above, as marriage is denied by this petitioner, where allegation of rape is, specifically, raised against the petitioner, as per



statement of victim recorded under Section 164 of the Cr.P.C. coupled with the fact as threat was advanced to informant, during the pendency of present bail petition, this Court is not inclined to grant privilege of bail to the petitioner, at present.

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

The learned Trial Court is directed to conclude the trial, preferably, within a period of 06 (six) months by taking this matter on board, on day-to-day basis, from the date of availability of the Court/Special Court, as it was informed that Court concerned is not available for the present. If the trial is not concluded within six (6) months from the date of availability of the Court, the petitioner may renew his prayer of bail, if so advised.

The Senior Superintendent of Police, Patna, is directed to produce all the charge-sheeted witnesses, as and when directed by the learned Trial Court, so as to conclude the trial within specified time period, as directed above.

(Chandra Shekhar Jha, J)

R.S.Sen/-

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