

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21266 of 2022**

Arising Out of PS. Case No.-189 Year-2021 Thana- AURAI District- Muzaffarpur

=====

KAISH PARVEZ @ RAJA SON OF MD. ABBAS R/O VILLAGE- UMAPAT
VASANT (PATHIA TOLA), P.S.- AURAI, DISTRICT- MUZAFFARPUR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Uday Prakash Shrarma, Advocate

For the Opposite Party/s : Mr. Akhileshwar Dayal, APP

=====

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

2 02-09-2022 Heard learned counsel appearing on behalf of the

petitioner and learned counsel appearing on behalf of the State,

through Virtual Court Proceedings.

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

The petitioner seeks bail in connection with Aurai P.S.

Case no. 189 of 2021 registered for the offence under Section

376 of the Indian Penal Code.

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

custody since 16.10.2021.

The allegation against the petitioner is to commit rape

upon the informant on false pretext of marriage.

Learned counsel appearing on behalf of the petitioner

submitted that the occurrence cannot be said rape, as the version



of the informant/victim speaks that she was consenting party and when petitioner refused to marry, present false case was lodged. It is also submitted that informant/victim refused for her medical examination, in support of her statement which create a further doubt over entire 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 duly assisted by learned counsel for the informant, while opposing the prayer of bail, submitted that the act of the petitioner suggesting that petitioner from very inceptions, was not intended to be act upon his promise of marriage and it suggests that consent of informant was obtained fraudulently, which is otherwise no consent under the law. It is also submitted that victim specifically supported the allegation against the petitioner, while recording her statement under Section 164 of the Cr.P.C. Learned counsel for the informant further submitted that rape is not medical finding and as such in absence of medical report, it cannot lead to a conclusion, *ipso-facto*, that rape was not committed upon.

In view of the submissions, as made above, as there is specific allegation of rape against this petitioner, which is duly



supported by statement of victim through 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 is directed to proceed with the matter, by taking it on board, on daily basis, so as trial may conclude within 06 (nine) months from the date of receipt of a copy of this order. Petitioner shall be at liberty to renew his prayer for bail, if so advised, in case, trial not concluded within the aforesaid period.

S.S.P., Muzaffarpur, is directed to produced the charge-sheeted witnesses, as and when directed by the Trial Court, for expeditious disposal of trial, within specified time, as directed above.

(Chandra Shekhar Jha, J)

S.Katyayan/-

U		T	
---	--	---	--

