

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28652 of 2022

Arising Out of PS. Case No.-23 Year-2022 Thana- DHURAIYA District- Banka

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AZAM ANSARI Son of Haider Ansari Resident of Village - Khorimore, P.S. -
Bhanduwakurara, District - Banka.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar @Deepak Sahay

For the Opposite Party/s : Mr. Madan Kumar

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 11-08-2022 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 Dhoraiya
P.S. Case No. 23 of 2022 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 18.02.2022.

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

Learned counsel appearing on behalf of the petitioner
submitted that the FIR was lodged after 5 years of the
occurrence. It is also submitted that due to dispute related with



fiscal transactions between the wife of the petitioner and informant/victim, the present false case is being lodged against this petitioner. It is also submitted that nothing surfaced during medical examination of the informant/victim, which may suggest that rape was committed upon her. It is also submitted that victim was consenting party but fairly conceded that the petitioner is a married person. 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 from perusal of FIR, it appears that rape was continuously committed upon the informant/victim. It is also submitted that informant/victim specifically alleged the allegation against this petitioner in her statement recorded under Section 164 of the Cr.P.C. It is also submitted that rape is a legal finding not a medical finding and in absence of any injuries it cannot be construed *ipso facto* that rape was not committed. It is also submitted that petitioner is married person and from very inception of occurrence, he was not acted upon his promise.

In view of the submissions as made above, as act of petitioner suggesting of the fact that he was never intended to be



act upon his promise of marriage, from very inception coupled with statement of victim recorded under Section 164 of Cr.P.C., this Court is not inclined to grant bail to the petitioner.

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 six months.

Superintendent of Police, Banka, 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)

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