

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30676 of 2022

Arising Out of PS. Case No.-162 Year-2021 Thana- TATARPUR District- Bhagalpur

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Sawan Kumar Son of Upendra Yadav @ Gopi Yadav @ Upendra Prasad
Yadav @ Opee Resident of Village - Parbatti, P.S.- Tatarpur (University),
Distt.- Bhagalpur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Krishna Prasad Singh, Senior Advocate
Ms. Archana Singh, Advocate
For the Opposite Party : Mr. Rajesh Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 24-08-2022 The learned counsel for the petitioner is directed to

remove all the defects pointed out by the Stamp Reporter within

one month.

Heard learned counsel for the petitioner and the
learned APP for the State.

Petitioner seeks regular bail in connection with
Tatarpur (University) P.S. Case No. 162 of 2021 registered for
the offences under Sections 34, 376, 384, 504, 506 of the Indian
Penal Code.

As per allegation this petitioner took the victim from
her house on the pretext of victim's husband having been tied-
up by co-accused Kanhaiya Yadav and thereafter the victim
went along with this petitioner at the place of occurrence where



she was raped by co-accused Kanhaiya Yadav.

The main submissions advanced by learned counsel Mr. Krishna Prasad Singh for the petitioner are that the alleged offence of rape is not made out against this petitioner and he has been languishing in jail since 17.09.2021 having clean antecedent and as per the allegation made in the FIR he is simply alleged to have taken the victim at the alleged place of occurrence and the same was allegedly committed by this petitioner in following with the direction given by the co-accused except this there is no any other allegation against this petitioner and as per FIR he did not commit rape with the victim lady. Further submission is that the medical report of the victim negates prosecution version as no sign of rape was found.

Learned APP Mr. Rajesh Kumar appearing for the State has opposed the bail prayer.

Heard both the sides and perused the FIR. Though the main allegation of rape is against co-accused Kanhaiya Yadav but the role of this petitioner in taking the victim at the alleged place of occurrence on the false pretext rises a circumstance going against him and showing him having common intention with the co-accused and moreover as per the FIR the petitioner was present at the place of occurrence when the co-accused



committed rape with the victim which also raises a presumption that the petitioner might have involved in the intention of the co-accused to commit the rape of the victim. From the alleged place of occurrence the victim’s cloths were also recovered as appears from the seizure list attached to the FIR. Considering these facts, in the opinion of this Court the petitioner does not deserve to the privilege of bail. Accordingly, his bail prayer stands rejected.

(Shailendra Singh, J.)

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