

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39698 of 2022**

Arising Out of PS. Case No.-285 Year-2021 Thana- NAVINAGAR District- Aurangabad

SHASHI BHUSAN CHAUHAN SON OF KAPIL DEO CHAUHAN R/O
VILLAGE- SALYAKARMA, P.S- NABINAGAR, DISTRICT-
AURANGABAD (BIHAR)

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Leelawati Kumari, Advocate
For the Opposite Party/s : Mr. Ramchandra Sahni, APP

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

3 14-11-2022 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
Nabinagar P.S. Case No. 285 of 2021 registered for the offence
under Sections 452, 363 and 34 of the Indian Penal Code.

The accused/petitioner is not named in the F.I.R. and
is in custody since 17.11.2021.

The allegation against the petitioner is to kidnap the
minor daughter of informant, while, she was sleeping in her
home.

Learned counsel appearing on behalf of the petitioner



submitted that statement of victim as regard to statement made under Section 161 qua 164 of the Cr.P.C. is contradictory as victim did not supported the factum of kidnapping, while, recording statement under Section 161 of Cr.P.C., whereas, she supported factum of kidnapping in Section 164 of Cr.P.C.. It is submitted that by taking note of either statement under Section 161 of Cr.P.C. or Section 164 of the Cr.P.C., sexual assault upon the victim cannot be gathered upon and it is very surprising that how doctor came to suggest about “sexual act” in medical report, without having any suggestive medical evidence. 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 for the State, opposes the prayer of bail.

Considering the facts and circumstances as mentioned above, and by taking contradictory note of statement of victim under Section 161 qua Section 164 of the Cr.P.C. regarding kidnapping, where, sexual assault is not supported coupled with the fact that charge-sheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Nabinagar P.S. Case No. 285 of 2021 on



furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Aurangabad/concerned court, subject to the condition as mentioned under Section 437(3) of the Cr.P.C.

The presence of I/O of this case is dispensed with.

(Chandra Shekhar Jha, J)

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