

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41081 of 2022**

**In
CRIMINAL APPEAL (SJ) No.4505 of 2021**

Arising Out of PS. Case No.-28 Year-2021 Thana- MAHILA P.S. District- Lakhisarai

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MUKESH KUMAR @ MUKESH SAW S/O GONGU SAW @ GONGU
SAO Resident of Village- Urain, P.S.- Kajra, District- Lakhisarai.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Y.C. Verma, Sr. Advocate Mr.Manoj Kumar, Advocate
For the Opposite Party/s	:	Mr.Binay Krishna, Spl. PP

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 30-08-2022 Heard learned senior counsel for the petitioner and

learned Spl. P.P. for the State.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 420 and 376(D) of the Indian Penal Code read with Sections 3(2)(v) of the S.C./S.T. Act and Sections 4 and 6 of the POCSO Act.

Learned senior counsel for the petitioner submits that the petitioner has antecedent of one case and the informant alleges that she was in relationship with Rohit, further the petitioner called her and on his calling she went to meet the petitioner where she was raped.

Learned senior counsel for the petitioner submits that



from perusal of the allegations as alleged in the F.I.R. it would manifest that there is a specific allegation against the petitioner of calling the informant by phone on which she went when the occurrence is alleged to have been committed, it is further submitted that the informant has supported the prosecution case in her statement recorded under Section 164 of the Cr.P.C. Learned senior counsel next submits that the F.I.R. came to be instituted after a delay of five days thus it is submitted that it absolutely does not stand to reason as to why the F.I.R. was instituted five days after the occurrence, it is submitted that the reason is obvious that the informant wanted to falsely implicate the petitioner as he had seen her with Rohit. It is next submitted that the petitioner is known to the father of the informant and as such would never have committed such an occurrence, further a Medical Board was constituted and the same also negated rape.

Learned Spl. P.P. for the State opposes the prayer for anticipatory bail of the petitioner and submits that there is allegation of rape against the petitioner by the informant and she has also supported the prosecution case.

Considering the submissions made by the learned Spl. P.P. for the State, the Court is not inclined to extend privilege of anticipatory bail to the petitioner. His prayer for bail is thus



rejected.

However, in the event, if the petitioner surrenders in the learned trial court on or before 15.09.2022, the learned trial court shall dispose of the bail application on the same day keeping in mind that the fact that there was a delay of five days in instituting the F.I.R. and the Medical Board also negates rape.

(Satyavrat Verma, J)

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