

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44433 of 2022

Arising Out of PS. Case No.-9 Year-2022 Thana- MAHILA PS District- Gopalganj

Anup Pandey Son Of Jitendra Pandey @ Jitendera Pandey R/O Village- Jalali
Tola (Jalaldi Tola), P.S.- Uchakagaon, Distt.- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Lokesh Kumar Singh, Advocate

For the Opposite Party/s : Mr.Murli Dhar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 08-12-2022 Heard learned counsel appearing on behalf of the
petitioner and learned APP 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
Gopalganj (Mahila) P.S. Case No. 09 of 2022 registered for the
offence under Sections 363, 366(A), 376(AB), 504, 509 of the
Indian Penal Code and Sections 4/6 of the POCSO Act, 2012.

The accused/petitioner is named in the F.I.R. and is in
custody since 17.03.2022.

The allegation against the petitioner is to kidnap the
minor victim/informant, aged about 16 years, and to commit
rape upon her, while in confinement at unknown place for 2-3
days.



Learned counsel appearing on behalf of the petitioner submitted that allegations appear false on its face, as victim was silent for long seven(7) years and thereafter, suddenly, the present case was lodged. It is submitted that age of victim appears to be major as 17 to 18 years, as per medical report. It is further submitted that medical report is not suggesting that rape was committed upon victim/informant. It is also submitted that implication is only to extort money from the petitioner, as it came to knowledge of informant/victim that petitioner returned from foreign after earning heavy amount of cash. While concluding the argument, it is submitted that investigation of this case is complete, for which, charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail submitted that victim specifically alleged this petitioner to commit rape upon her, while recording her statement under Section 164 of the Cr.P.C. It is further submitted that non-finding of injury does not lead to conclusion, *ipso facto*, that rape was not committed upon victim as rape is not a medical finding rather a legal one.

In view of the facts and circumstances as mentioned



above, as victim specifically alleged against this petitioner to commit rape upon her through her statement recorded under Section 164 of the Cr.P.C., this Court is not inclined to grant privilege of bail to the petitioner, at present.

Accordingly, the prayer for bail of the petitioner is rejected herewith.

The learned Trial Court/Special Court is directed to proceed with the matter, by taking it on board, on day-to-day basis, so as trial may conclude within specified time as prescribed under Section 35(2) of the POCSO Act, 2012.

The Superintendent of Police, Gopalganj, is directed to produce the charge-sheeted witnesses, as and when directed by the learned Trial Court/Special Court, for expeditious disposal of trial, within specified time, as prescribed under the law, as mentioned above.

(Chandra Shekhar Jha, J)

R.S.Sen/-

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