

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58948 of 2021

Arising Out of PS. Case No.-26 Year-2021 Thana- BENIPATTI District- Madhubani

FUL KUMAR MAHTO Son of Kailash Mahto Resident of Village -
Ladugama, P.S.- Benipatti, District - Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Birendra Kumar Singh, Advocate
For the Informant	:	Mr. Ratnakar Jha, Advocate
For the Opposite Party/s	:	Mr. Aditya Narayan Singh.1, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 12-04-2022 Heard learned counsel for the petitioner, learned counsel
for the informant and learned A.P.P. for the State.

Let the defect(s), if any, be removed within a period of
four weeks after complete start of the physical Court.

The petitioner seeks bail in a case registered for the
offences punishable under Sections 376, 323, 504/34 of the Indian
Penal Code read with Sections 3 and 4 of the Protection of
Children from Sexual Offenses Act, 2012.

Learned counsel for the petitioner submits that the
petitioner is in custody since 13.03.2021, is a person with clean
antecedent and charge-sheet has been submitted.

The informant alleges that the petitioner used to tease
her daughter, hence, the informant fixed the marriage of the
daughter on 30.04.2021 but the petitioner pressurized the victim to
break the marriage and took her in a room and raped her on which



the victim came crying and disclosed the occurrence to the family. It is further alleged that petitioner is married from before and on 23.03.2021 the petitioner came to the house of the informant and forcefully tried to take her daughter and when the informant resisted he was assaulted.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the case. It is further submitted that the petitioner and the victim were in love and when the marriage of the victim was fixed, the victim got disturbed and with a view to break her marriage, she cooked up a story. It is further submitted that from perusal of the allegation in the first information report, it would manifest that the informant alleges that the victim was raped on 22.02.2021 and if what has been alleged is true then definitely the FIR ought to have been instituted on the date of occurrence but the same was not done. Thereafter, the informant alleges that again this petitioner came to his residence and was trying to forcefully take the victim but she resisted and thereafter on 24.02.2021 the FIR came to be instituted and the victim was medically examined and the medical report negates the allegation of rape. It is, thus, submitted that if what the informant alleges in the FIR is true then definitely some sign of rape ought to have been recorded in the injury report. The fact that the Medical Board which was constituted negates the allegation of



rape in itself is proved enough of innocence of the petitioner. It is further submitted that the victim in her statement recorded under Section 164 Cr.P.C. has supported the prosecution case and has also stated that the occurrence was photographed by the petitioner and was made viral.

Learned counsel for the informant opposes the prayer for bail of the petitioner and submits that the victim in her statement under Section 164 Cr.P.C. has clearly stated that she was raped and the petitioner made video of the occurrence and made it viral.

Learned counsel for the petitioner rebutting the submission of the learned counsel for the informant has submitted that there is no video nor it was made viral as no occurrence had taken place. It is also submitted that if what has been stated by the learned counsel for the informant and the victim in her statement under Section 164 Cr.P.C. is true then the victim be directed to produce the video either before the police or before this Court.

Based on the submissions made by the learned counsel for the petitioner, this Court by order dated 09.03.2022 had recorded that the informant undertakes to produce the copy of the alleged video about which the victim has stated in her statement under Section 164 Cr.P.C. before the Court on the next date.

Today, when the matter is taken up, learned counsel for



the informant at the outset on instruction submits that the victim now has disclosed that presently she does not have a copy of the alleged video.

Learned counsel for the petitioner based on the submissions of the learned counsel for the informant submits that since there was no occurrence, as such, there was no video and, thus, the victim is not in a position to produce the same.

Considering the fact that the petitioner is in custody since 13.03.2021, is a person with clean antecedent and charge-sheet has been submitted and taking into consideration the submissions made by the learned counsel for the petitioner and also the submissions made by the learned counsel for the informant, the petitioner, above named, is directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with Benipatti P.S. Case No. 26 of 2021.

(Satyavrat Verma, J)

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