

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64263 of 2021**

Arising Out of PS. Case No.-49 Year-2021 Thana- MAHILA PS District- Darbhanga

MITHU KUMAR YADAV @ BIJLI S/O SATTO YADAV R/o village-
Sirhulli, P.S.- Kamtaul, Distt.- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kedar Jha

For the Opposite Party/s : Mr. APP

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

4 17-08-2022 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 Mahila
P.S. Case No. 49 of 2021 registered for the offence under
Section 376/323/504/34 of the Indian Penal Code.

The accused/petitioner is named in the F.I.R. and is in
custody since 13.05.2021.

The allegation against the petitioner is to commit rape
upon informant on the false pretext of marriage.

Learned counsel appearing on behalf of the petitioner
submitted that the occurrence cannot be said as rape as physical
relationship has been established on the consent of the victim. It



it also submitted that the petitioner is ready to marry but as he request to postpone the marriage for time being, the present false case has been lodged, under wrong impression. While travelling over the argument, learned counsel for the petitioner relied upon the judgment of Hon'ble Supreme Court in the matter, titled as *Uday Vs. State of Karnatka*, reported in **2003 (4) SC 46**. It is also pointed out that the petitioner is a man of clean antecedent. 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, while opposing the prayer of bail, submitted that the petitioner was never intended to act upon promise of his marriage, from very inception of relations, as informant/victim found 04 months pregnant and repeatedly requested petitioner to solemnize marriage, which was deffered by petitioner for one and another reasons. It is also submitted that informant supported the occurrence through her statement recorded under Section 164 of the Cr.P.C. It is also submitted that medical report also confirming the fact that informant/victim is carrying pregnancy of four months. Learned APP, further submitted that trial of this case has already



initiated, where out of 9 (nine) charge-sheeted witnesses, three has already been examined.

In view of the submissions, as made above, as act of petitioner suggesting that he was never intended to act upon his promise, even, knowing the fact of pregnancy of the informant, this Court is not inclined to grant bail to the petitioner, at present.

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

Trial Court is directed to proceed with the matter, by taking it on board, on daily basis, so as trial may conclude within 06 (six) months from the date of receipt of a copy of this order.

Superintendent of Police, Darbhanga, is directed to produced the charge-sheeted witnesses, as and when directed by the Trial Court, for expeditious disposal of trial, within specified time, as directed above.

(Chandra Shekhar Jha, J)

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