

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64348 of 2021**

Arising Out of PS. Case No.-167 Year-2021 Thana- BARAUNI District- Begusarai

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Suraj Kumar S/o- Kailash Mahto @ Kailash Ray R/o Village- Kiul, P.S.-
Barauni (Gadhara O.P.), District- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shubhesh Pandey, Advocate

For the Opposite Party/s : Mr. Hare Krishna Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA

ORAL ORDER

7 07-12-2022 Heard learned counsel appearing on behalf of the

petitioner and learned counsel appearing on behalf of the State

as well as learned counsel for the informant.

Let the defect(s), if any, be removed within a period

of four weeks from today.

The petitioner seeks bail in connection with Barauni

P.S. Case No. 167 of 2021 registered for the offence under

Sections 363, 365, 302, 364, 376(D), 120B/34 of the Indian

Penal Code and Sections 4 and 6 of the POCSO Act.

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

is in custody since 30.04.2021.

The allegation against the petitioner is to commit



murder of the daughter of the informant, after kidnapping and committing rape upon her, along with other co-accused person.

Learned counsel appearing on behalf of the petitioner submitted that petitioner is not named in the FIR and name of the petitioner surfaced on the basis of confessional statement of co-accused, namely, Sivesh Kumar @ Lalan. It is also submitted that in furtherance of the said confession nothing incriminating except, blood stained stones, was recovered and that too from open place. It is also submitted that blood stained stones and clothes as found in house of co-accused, failed to suggest any thing incriminating as per FSL report. It is also submitted that finger print report also failed to invite incrimination of petitioner with present set of occurrence. Learned counsel further submitted that mere on the point of suspicion as co-accused were found in conversation with each other over telephone, cannot be said involved in the present case, who are otherwise known to each other. It is also submitted that 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 duly assisted by learned counsel for the



informant, while opposing the prayer of bail, submitted that except I.O. and doctor, all witnesses have been examined in this case after commencing the trial.

Considering the facts and circumstances as mentioned above, as finger print and FSL report of blood stained clothes failed to invite, *prima-facie*, involvement of petitioner, with the present set of allegation/occurrence 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 Barauni P.S. Case No. 167 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 Additional Sessions Judge-VI-cum-Special Judge, POCSO Act, Begusarai, subject to the conditions as mentioned:

(i) That
accused/petitioner shall
cooperate in the trial and shall
be physically present on each
and every date before the learned
Trial Court till conclusion of the
trial and exemption from
physical appearance be



allowed by the learned Trial Court, only on medical ground of the petitioner, duly supported by the documents.

(ii) That one of the bailors shall be deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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