

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68417 of 2021

Arising Out of PS. Case No.-84 Year-2021 Thana- DHANAHA District- West Champaran

BIRENDRA GUPTA Son of Durga Sah Resident of Village -
Rupahighaghwa, P.S.- Dhanha, District - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Y.C. Verma, Senior Advocate
		Mr. Suresh Prasad Sharma, Advocate
For the Opposite Party/s :		Mr. Anil Kumar Singh No. 1, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 18-10-2022 Heard learned counsel appearing on behalf of the
petitioner and learned counsel 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 Dhana
P.S. Case No. 84 of 2021 registered for the offence under
Sections 313, 314, 315, 376 and 34 of the Indian Penal Code.

The accused/petitioner is named in the F.I.R. and is in
custody since 29.07.2021.

The allegation against the petitioner is to commit rape
upon the informant/victim, while she was remained alone in her
house.

Learned senior counsel appearing on behalf of the



petitioner submitted that allegation against this petitioner is false, as this petitioner developed some disputes with brother of informant. It is further submitted that during medical examination, no recent sign of physical injuries/sexual assault was noticed upon informant/victim. It is also submitted that from bare perusal of FIR, it appears that the physical relations was established out of the consent of informant/victim, not constituting the allegation of rape. 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 informant/victim specifically alleged this petitioner through her statement, as recorded under Section 164 of the Cr.P.C., as to commit rape upon her. It is also submitted that non-finding of injury during course of medical examination does not lead to a conclusion, *ipso-facto*, that rape was not committed upon, as rape is a legal finding not medical.

In view of the submissions, as made above, as informant/victim specifically alleged 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 bail to the petitioner, at present.

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

Learned Trial Court is directed to proceed with the matter, by taking it on board, on daily basis, if so required, so as trial may conclude within 09 (nine) months from the date of receipt of a copy of this order.

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

(Chandra Shekhar Jha, J)

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