

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67969 of 2021

Arising Out of PS. Case No.-49 Year-2021 Thana- MADHEPUR District- Madhubani

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Sintu Kumar Mahto S/o Late Om Prakash Mahto R/o Village- Babujivan,
P.S.- Madhepur, Dist. Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ravi Prakash, Advocate

For the Opposite Party/s : Ms. Renuka Ratnakar, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 11-07-2022 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
Madhepur P.S. Case No. 49 of 2021 registered for the offence
under Sections 420 and 376 of Indian Penal Code.

The accused/petitioner is named in the F.I.R. and is in
custody since 05.04.2021.



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

Learned counsel appearing on behalf of the petitioner submitted that the victim/informant is major and her statement, as recorded under Section 164 of Cr.P.C., is appearing in contradiction with written complaint, which is the basis of present F.I.R. It is submitted that it was the mother of the petitioner, who had abused and declined to give her consent for marriage, as per statement of the victim recorded under Section 164 of Cr.P.C. It is further submitted that informant is a married lady, which is not mentioned in the F.I.R., for which infomatory petitioner was also filed by the petitioner. It is submitted that nothing surfaced during the course of investigation, which may suggest that intention of the petitioner was not to marry with the victim/informant from very inception of the occurrence. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and, moreover, investigation in this case is complete for which chargesheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State, opposes the prayer of bail of the petitioner.

Considering the facts and circumstances as mentioned



above, as there is contradiction between the written complain, *qua* the statement of the victim recorded under Section 164 of Cr.P.C., let the petitioner, above named, is directed to be released on bail in connection with Madhepur P.S. Case No. 49 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 Chief Judicial Magistrate- 1st, Madhubani, subject to the following conditions:

“(i) That accused/petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner, duly supported by the documents.



(iii) That one of the bailors shall be
Fulo Mahato, who is the cousin of the
petitioner and deponent of the present bail
petition.”

(Chandra Shekhar Jha, J)

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