

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69389 of 2021

Arising Out of PS. Case No.-109 Year-2021 Thana- DHANSOI District- Buxar

MAHESH KUMAR Son of Kesho Singh Resident of Village - Sarea, P.S. -
Dhansoi, District - Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar Singh, Advocate
For the Opposite Party/s : Mr. Harendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 20-12-2022 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 Dhansoi
P.S. Case No. 109 of 2021 registered for the offence under
Sections 376, 363(A) and 366 of the Indian Penal Code and
Section 4/8 of the POCSO Act.

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 kidnap the
minor daughter of the informant, aged about 14 years, for the
purpose of illicit intercourse, whereafter, marriage was
solemnized by this petitioner with victim against her will and



further she was subjected to rape.

Learned counsel appearing on behalf of the petitioner submitted that petitioner has been falsely implicated, out of failed love affairs. It is also submitted by learned counsel that there is contradiction between the statements of victim as recorded under Section 161 of the Cr.P.C. qua Section 164 of the Cr.P.C., whereas both statements were recorded on the same day. It is also pointed out that no incriminating material surfaced, while conducting medical examination of victim, to suggest that rape/penetrative sexual assault as alleged was committed upon. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and moreover, 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 victim specifically stated that petitioner solemnized marriage after kidnapping, without her will and thereafter she was raped upon, while recording her statement under Section 164 of the Cr.P.C. It is also submitted that specific allegation of kidnapping and penetrative sexual assault are available against this petitioner. It is also submitted that all



prosecution witnesses have examined in this case and as such, trial is likely to conclude within maximum period of two months.

In view of the submissions, as made above, as specific allegation of rape/penetrative sexual assault is available against this petitioner, 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 day-to-day basis, so as trial may conclude within 02 (two) months from the date of receipt of a copy of this order.

(Chandra Shekhar Jha, J)

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