

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1646 of 2022

Arising Out of PS. Case No.-535 Year-2021 Thana- KUDHNI District- Muzaffarpur

Mithlesh Singh, Son Of Ram Kailash, Singh R/O Village- Dharmuaha, P.S.-
Kurhani, Dist.- Muzaffarpur

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Anuj Kumar, Advocate
For the State	:	Mr.Masoom Alam, APP
For the Informant	:	Mr. Nawal Kishore Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

5 15-11-2022 Heard learned counsel for the petitioner and learned
APP for the State as well as learned counsel for the informant.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks.

In the present case, the petitioner seeks bail in
connection with Kudhani (Turki O.P.) P.S. Case No. 535 of 2021
registered for the alleged offences under Sections 363, 420, 376,
504, 506 and 34 of the Indian Penal Code.

As per prosecution case, the informant was called out
by co-accused Sandeep Singh and he handed her over to another
accused Raj Kumar who committed rape with her. The
petitioner and another co-accused Vishkarma Kumar were also
with them. Further allegation against the petitioner is that he

committed rape with the informant two months prior to the registration of the present FIR.

Learned counsel for the petitioner submits that petitioner is innocent and has been falsely implicated in this case and this fact is apparent from the FIR. The allegation against the petitioner is to have committed rape with the informant two months earlier from the date of her alleged kidnapping, but the informant did not lodge any report regarding this incident and did not even inform her husband. In the FIR, the informant did not make any allegation of further committing rape against this petitioner but while recording her statement under Section 164 of the Cr.P.C., she improvised the statement and made allegation of rape against this petitioner as well as two other co-accused persons. From the facts of this case, it is apparent that there appears to be some extramarital relation of the informant with the co-accused and the present case has been lodged when the husband of the informant came to know about this fact. All the allegations against this petitioner are concocted and manufactured. There is no eye-witness to the alleged occurrence and allegation is general and omnibus against the petitioner as well as other co-accused persons and are simply not believable. Other similarly placed co-accused have been

granted bail by different Coordinate Benches of this Court vide order dated 17.10.2022 passed in Cr. Misc. No. 71786 of 2021 and vide order dated 19.09.2022 passed in Cr. Misc. No. 28857 of 2022, respectively. The petitioner is in custody since 24.07.2021 and charge sheet has been submitted.

Learned APP for the State as well as learned counsel appearing on behalf of the informant oppose the submission made on behalf of the petitioner. Learned counsel for the informant submits that the petitioner is a part of a human trafficking gang and they again kidnapped the informant and subsequently another case was also lodged for kidnapping of the informant by the co-accused persons. She was recovered from Maharashtra.

Perused the records.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the probability of false accusation against the petitioner and further considering the period of custody of the petitioner and submission of charge sheet, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial

Magistrate 1st, West Muzaffarpur in connection with Kudhani (Turki O.P.) P.S. Case No. 535 of 2021, subject to the condition mentioned in Section 437(3) of the Code of Criminal Procedure and other following conditions:

- (i) One of the bailors will be the person, who has sworn the affidavit.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence for three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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