

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24147 of 2023

Arising Out of PS. Case No.-30 Year-2020 Thana- MAHILA PS District- Jehanabad

Vikash Kumar, Son of Sidhnath Das, Resident of Village - Dharmpur, P.S.-
Kako, District - Jehanabad.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar, Advocate
		Mr. Sada Nand Roy, Advocate
For the Opposite Party/s :		Mr. Kanhaiya Kishore, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 27-06-2023 Heard learned counsel for the petitioner and
learned Additional Public Prosecutor for the State.

The accused/petitioner seeks bail in connection with Jehanabad Mahila P.S. Case No.30 of 2020, POCSO Case No.77 of 2021 registered for the offences punishable under Sections 376, 504, 506 read with 34 of the Indian Penal Code and Sections 66-B, 66-C of Information and Technology Act and Sections 4 and 6 of the Protection of Children from Sexual Offences Act.

The accused/petitioner named in the FIR and is in custody since 09.11.2022.

Allegation against the petitioner is to commit rape upon sister of informant on several occasions in last four years prior to date of lodging of this FIR and also to capture nude



photo of victim-sister of informant and to blackmail her to establish physical relation and also to solemnize marriage.

It is submitted by learned counsel for the petitioner that the entire implication is false on its face and appearing doubtful for the reason that same is based upon hearsay input of the victim-sister of informant. It is submitted that the age of victim girl as per school certificate is 06.05.2021 and, as such, on the date of lodging FIR, she was about 20 years but, she never being an adult complained the occurrence as alleged to any family members or police station, implied that the victim was in love affairs with petitioner and as this love affair was not accepted by informant and other family members, being the member of other caste as it is apparent from the face of FIR, the present implication was raised. It is submitted that allegation as to capture obscene photograph of victim girl is also not convincing on its face that no such photograph as alleged was collected or recovered during the course of investigation. Learned counsel further submitted that the basis of implication is a phone call of petitioner, which was made on 07.06.2020 to informant as to solemnize his marriage with alleged victim but, after passing of about three months on the basis of false and imaginary story of rape, the present FIR was lodged on



26.09.2020. It is submitted that medical examination is also not supporting the occurrence of rape as alleged. While travelling over the argument, learned counsel submitted that implication is out of failed love affair where victim appears major and implication appears as marriage could not negotiated for the apparent reason as mentioned in the FIR itself. In support of his submission, it is submitted by learned counsel that the fact of this case not constitute the occurrence as rape and in support of his submission, he relied upon the report of Hon'ble Supreme Court in the matter of *Sonu @ Subhash Kumar vs. State of Uttar Pradesh* reported in *2021(3) BLJ 171 SC*. While concluding argument, it is submitted that petitioner is a man of clean antecedent and moreover investigation of this case is completed for which charge-sheet has been submitted and, as such, there is no chance of tampering with the evidence.

Learned APP for the State submitted that allegation of rape is specific against this petitioner.

In view of above-mentioned facts and circumstances, as the entire implication is based upon a hearsay input, where victim appears to be major and present FIR was lodged only when petitioner made a call to the informant, who is the brother of victim to solemnize his marriage with alleged



victim, coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 09.11.2022, accordingly, the petitioner, above-named, is directed to be released on bail furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned A.D.J.-VI, Jehanabad in connection with Jehanabad Mahila P.S. Case No.30 of 2020, subject to the conditions as laid down under Section 437(3) of the CrPC.

(Chandra Shekhar Jha, J.)

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