

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31567 of 2023

Arising Out of PS. Case No.-29 Year-2022 Thana- MAHILA THANA District- Begusarai

Jitendra Kumar Sah @ Jinendar Kumar Sah S/O Suresh Prasad Sah R/O
Village- Chak Amla, P.S- Bhagwanpur, Distt.- Begusarai.

... .. Petitioner/S

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Gajendra Kumar Jha-2, Advocate
For the Opposite Party/s	:	Mr. Bipin Kumar, Advocate
For the State	:	Dr. Indihar Kumari, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 21-06-2023 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 Begusarai
Mahila P.S. Case No. 29 of 2022 registered for the offence
under Section 376 of the Indian Penal Code.

The accused/petitioner is named in the F.I.R. and is in
custody since 02.12.2022.

The allegation against this petitioner is to commit rape
upon informant/victim aged about 24 years on the false pretext
of marriage by calling her Barauni from Delhi.

Learned counsel appearing on behalf of the petitioner



submitted that petitioner was implicated falsely with present case as the allegation of rape is totally false and the present implication was raised only for the reason that marriage of petitioner with victim could not be negotiated or performed for any unexplained reasons. It is submitted that the allegation becomes highly improbable to accompany petitioner and live together for two months particularly under the circumstances when petitioner alleged to administer adulterated cold drinks and to take nude photographs of the victim. It is submitted that the occurrence as alleged is purely consensual physical relation not rape. While traveling over the argument, learned counsel relied upon the report of the Hon'ble Supreme Court in the case of *Sonu @ Subhash Kumar vs State of Uttar pradesh* reported in *2021(3) BLJ, SC 171*. While concluding the argument, it has been submitted that both parties are major and they live together for a long period of time out of their own consent negating, prima facie, the allegation of rape and moreover, investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP duly assisted by learned counsel appearing for the informant, while opposing the prayer of bail



submitted that the allegation of rape is specific against this petitioner.

Considering the facts and circumstances as mentioned above, as the allegation of rape raised, *prima facie*, out of failed negotiation of marriage, where parties being major live together for a substantial period of time, coupled with the fact that charge-sheet has been submitted, where petitioner is in custody since 02.12.2022, accordingly the petitioner, above named, is directed to be released on bail in connection with Begusarai Mahila P.S. Case No. 29 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Begusarai/concerned Court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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