

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48395 of 2023

Arising Out of PS. Case No.-370 Year-2018 Thana- KATIHAR NAGAR District- Katihar

Ram Dular Tudu @ Ram Dular Tuddu @ Ram Dular Tudd Son of Kudhaya
Tuddu @ Dukhiya Tuddu @ Dukhaya Tudu Resident of Village - Hisa Tola
Brindawan, P.S.- Manihari, District - Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shivendra Prasad, Adv.

For the Opposite Party/s : Mr. Chandra Sen Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

7 01-12-2023 Heard Mr. Shivendra Prasad, learned counsel

appearing on behalf of the petitioner and learned Additional

Public Prosecutor for the State.

2. This is the second attempt whereby the petitioner, who is in custody since 01.12.2021, is renewing his prayer for bail in connection with Katihar (N) P.S. Case No. 370 of 2018 registered for the offence punishable under Section 376 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act. However, the Charges were framed under Sections 376, 341, 323 and 504 of the Indian Penal Code.

3. Earlier, the prayer for bail of the petitioner was rejected taking into consideration the nature of accusation and the statement of the victim recorded under Section 164 of the



CrPC. However, while rejecting the prayer of the petitioner, this Court has directed the learned trial court to take all necessary endeavours to expedite and conclude the trial as early as possible and if there would not be any substantive progress in the trial, liberty was allowed to the petitioner to renew his prayer for bail after six months.

4. Mr. Prasad, learned counsel for the petitioner, submits across the Board that though the prayer of the petitioner has already been rejected on the point of merit, it is the fact that more than a year has been elapsed after the earlier rejection but till date out of seven witnesses, only four witnesses have been examined including the informant of this case. He further submits that the manner in which the trial is progressing, there is no likelihood of the conclusion of the trial in near future. He further drew the attention of this Court to the deposition of the informant, who was examined as P.W.2 in the Sessions Trial No. 291 of 2022 and with reference to the aforesaid deposition, he submits that earlier also a similar kind of accusation has been levelled against one Prem Lal Kisku with whom the informant had also a baby child. He next submits that the entire prosecution case appears to be made only with a view to pressurize the petitioner and get some undue advantage. He



lastly submits that even if the allegation is taken to be true, it was a consensual relationship between two major on the pretext of marriage and thus cannot constitute an offence of rape.

5. On the other hand, learned counsel for the State, opposes the bail application and submits that the informant has supported the prosecution case even during the course of trial.

6. Regard being had to the submissions made on behalf of the parties and considering the observation of this Court in its earlier order dated 18.10.2022 as also the fact that there is no likelihood of the conclusion of the trial in near future, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge 1st Katihar in connection with Katihar (N) P.S. Case No. 370 of 2018, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or



intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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