

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49817 of 2023

Arising Out of PS. Case No.-14 Year-2022 Thana- MAHILA P.S. District- Nawada

Sudhir Kumar, S/o Ganga Mistri, R/o Village- Parariya, P.S.-Nardiganj, Dist.-
Nawada, State- Bihar

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate

For the Opposite Party/s : Mr. Shantanu Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 09-08-2023 Heard learned counsel for the petitioner and
learned Additional Public Prosecutor for the State.

2. The accused/petitioner seeks bail in connection
with Rajauli (Mahila) P.S. Case No.14 of 2022 registered for the
offences punishable under Sections 341, 323, 312, 376, 504, 379
read with section 34 of the Indian Penal Code and section 66-E
of the Information and Technology Act.

3. The accused/petitioner is named in the FIR and is
in custody since 26.06.2022.

4. Allegation against the petitioner is to commit rape
upon informant/victim, who is a married lady aged about 30
years and also mother of two children.

5. It is submitted by learned counsel that the
petitioner has been falsely implicated with present case out of
neighbourhood dispute and differences. It is submitted that the



informant/victim is a married lady and as such, there is no occasion to commit rape on false pretext of marriage. Learned counsel for the petitioner in support his submission relied upon the legal report of Hon'ble Supreme Court in the matter of **Sonu @ Subhash Kumar vs. State of Uttar Pradesh & Anr.** as reported in **2010 (3) BLJ SC 171**. It is submitted that as the furniture shop of sister of informant/victim was close to the shop of petitioner, out of business dispute, as both are in same field of business, the present false implication was raised, where informant/victim appears to be made instrumental. It is also submitted that there is no any medical prescription in support of abortion as alleged that same was caused by this petitioner on 5-6 occasions. It is further submitted that nothing surfaced during course of medical examination, which may suggest that rape was committed upon. While concluding argument, it is submitted that the 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.

6. Learned APP while opposing the prayer for bail submitted that the allegation of rape is specific against this petitioner and further it has been submitted that rape is a legal



finding and not a medical term and as such non-finding of injury does not lead to a conclusion *ipso facto* that rape was not committed upon as alleged.

7. In view of above-mentioned facts and circumstances and by taking note of fact as informant was living willingly with petitioner at Delhi out of her own sweet will, where present implication is raised only when petitioner refused to marry this informant/victim as per FIR, coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 26.06.2022, 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 Additional Session Judge-1st, Nawada in connection with Rajauli (Mahila) P.S. Case No.14 of 2022, subject to the conditions as laid down under Section 437(3) of the CrPC.

(Chandra Shekhar Jha, J.)

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