

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59009 of 2022

Arising Out of PS. Case No.-58 Year-2022 Thana- MAHILA P.S. District- Saran

Surendra Kumar Sriwastava S/o Sri Harishankar Prasad Srivastava R/o- West
of Dr. Mahmood Chowk, Dahiayawan, P.S.- Chapra Town, Distt- Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Bindhyachal Singh, Sr. Advocate
	:	Mr. Prashant Sinha, Advocate
For the Opposite Party/s	:	Mr. Uday Chand Prasad, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 16-02-2023 Heard learned counsel appearing on behalf of the
petitioner and learned APP appearing on behalf of the State.

The petitioner seeks bail in connection with Mahila
P.S. Case No.58 of 2022 registered for the offence under
Sections 376, 307, 354(B), 341, 323, 325, 420, 504 and 509 of
the Indian Penal Code.

The accused/petitioner is named in the F.I.R. and is in
custody since 09.07.2022.

The allegation against the petitioner is commit rape
upon informant and also to take a loan of Rs. 2,00,000/- (Rupees
Two Lakh) which subsequently became subject of dispute, when
asked to return the same on denial of marriage.

Learned senior counsel appearing on behalf of the



petitioner submitted that from the statement of victim as recorded u/S 164 of the Cr.P.C., it appears that the present F.I.R. was lodged only for the single reason, when petitioner refused to pay Rs. 2,00,000/- (Rupees Two Lakh) to informant/victim on demand subsequent to refusal of marriage by this petitioner. It is also submitted by learned senior counsel that from the bare perusal of statement of victim as recorded u/S 164 of the Cr.P.C. as mentioned in para no. 41 of the case diary, allegation of rape cannot be said to be made out, rather it was consensual physical relation. It is also submitted that injury as claimed to be received by informant/victim was not received in connection with rape, rather it was due to manhandling, when loan of Rs. 2,00,000/- (Rupees Two Lakh) was refused to be paid by this petitioner. It is also submitted that nature of injuries as received by informant/victim during the occurrence are of simple in nature suggesting not sufficient to cause death in the ordinary course of nature and as such intention of petitioner as to cause death cannot be gathered from the inflicted injuries and as such applicability of Section 307 of the I.P.C. on its face is not appearing convincing. While concluding the argument, it is submitted that investigation of this case has been completed, for which, charge-sheet has already been submitted, as such, there



is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State, while opposing the prayer for bail submitted that the allegation of rape is available from the face of F.I.R., but fairly conceded that informant is a married lady.

In view of the facts and circumstances as mentioned above and by taking note of the statement of victim as recorded u/S 164 of the Cr.P.C., where physical relation appears consensual and dispute was mainly over refusal to return Rs. 2,00,000/- (Rupees Two Lakh) received as loan from informant/victim coupled with the fact that charge-sheet has already been submitted, let above named petitioner is directed to be released on bail in connection with Mahila P.S. Case No.58 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 Sub-Divisional Judicial Magistrate, Saran, Chapra/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J.)

S.Tripathi/-

U		T	
---	--	---	--

