

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59767 of 2022

Arising Out of PS. Case No.-67 Year-2022 Thana- BHAGWANPUR District- Begusarai

Chhotu Kumar Sharma Son of Ramprit Sharma R/O Village- Sherpur, P.S.-
Bhagwanpur, District- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raj Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Dinesh Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 20-02-2023 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
Bhagwanpur P.S. Case No. 67 of 2022 registered for the offence
under Sections 448, 376, 504 and 506 of the Indian Penal Code
(for short 'I.P.C.').

The accused/petitioner is named in the F.I.R. and is in
custody since 16.05.2022.

The allegation against the petitioner is to commit rape
upon informant/victim, aged about 31 years, who is none but the
wife of cousin elder brother of the petitioner married 12 years
ago and also a mother of four children.



Learned counsel appearing on behalf of the petitioner submitted that several witnesses during the course of investigation supported the factum of illicit relation between informant and petitioner. It is also submitted that even, as per the F.I.R., the occurrence is founded over the dispute arises out of money transactions, where loan, as advanced by informant, was asked to return. It is also submitted that no medical injuries or anything adverse were noticed, while conducting medical examination of informant/victim, suggesting that rape was committed upon her. It is also pointed out that as petitioner refused to keep the informant as a wife, who is legally wedded wife of his cousin elder brother, the present false case was lodged. It is also pointed out that even from the statement of victim, as recorded under Section 164 of the Cr.P.C., it can be gathered that the occurrence cannot be categorized as rape rather appears of consensual physical relation and when occurrence was noticed by parents of the petitioner present case of rape was lodged. While concluding the argument, it has been submitted that investigation has been completed, for which, charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail



submitted that victim is specifically supported the allegation of rape against this petitioner. It is also submitted that non-finding of injuries does not lead to a conclusion, *ipso facto*, that rape was not committed upon for the reason that rape is a legal finding not medical one.

Considering the facts and circumstances as mentioned above and by taking note of the fact as informant is a family member married to the cousin elder brother of the petitioner 12 years ago, where several witnesses supported the factum of illicit relation between informant and petitioner coupled with the fact that disputes arises out of money transactions, where charge-sheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Bhagwanpur P.S. Case No. 67 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 Judicial Magistrate First Class, 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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