

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63256 of 2022

Arising Out of PS. Case No.-14 Year-2021 Thana- TEYAR District- Bhojpur

SHASHIKANT MAHTO Son of Late Sri Krishna Mahto Resident of Village-
Pasaur Tola, P.S.- Piro, District- Bhojpur, Ara

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Om Prakash Upadhyay, Advocate
For the Opposite Party/s : Mr.Nagendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 19-04-2023 Heard learned counsel appearing on behalf of the
petitioner and learned APP 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 Tiyar P.S.
Case No. 14 of 2021 registered for the offence under Sections
120(B), 366, 363, 365, 376, 376(E), 354, 354(B) of the Indian
Penal Code.

The accused/petitioner is named in the F.I.R. and is in
custody since 17.09.2022.

The allegation against the petitioner is to commit rape
upon informant aged about 25 years, along with other co-
accused persons/family members.

Learned counsel appearing on behalf of the petitioner



submitted that the present FIR was instituted upon the complaint filed by the informant bearing no. 134(c) of 2021 before the Court of learned Chief Judicial Magistrate, Bhojpur, Ara. It is submitted that as petitioner is the full brother of co-accused namely, Sukhdayal Mahto @ Ritesh Mahto, against whom the thrust of allegation regarding rape is available, was also implicated with present case. It is further submitted that almost no single allegation is available against this petitioner from the narration of complaint, which is the basis of present FIR. It is further submitted that the statement of victim while recording her statement under Section 164 of the Cr.P.C. appears improved as she stated thereof that petitioner was also present at Delhi Station, where allegation of rape is specific against the brother of the petitioner who is co-accused, Sukhdayal Mahto @ Ritesh Mahto. It is also submitted that victim returned from Delhi to Ara on 16.12.2020 but she lodged her complaint with learned Chief Judicial Magistrate, Ara, only somewhere in January, 2021 after passing out reasonable period of time suggesting the false implication, being an afterthought. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and, moreover, investigation of this case is completed, for which, charge-sheet has submitted, as such, there



is no chance of tampering with the evidence.

Learned APP opposes the prayer of bail.

In view of the facts and circumstances as mentioned above, as allegation of rape/sexual assault is not available against this petitioner, who appears full brother of the co-accused, namely, Sukhdayal Mahto @ Ritesh Mahto against whom the thrust of allegation as regard to rape is available coupled with the fact that charge-sheet has already submitted, let the petitioner, above named, is directed to be released on bail in connection with Tiwar P.S. Case No. 14 of 2021 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, Ara, Bhojpur/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

R.S.Sen/-

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