

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65359 of 2022

Arising Out of PS. Case No.-77 Year-2021 Thana- BHAIKAVSHTHAN District- Madhubani

Md. Naeem Ansari Son of Md. Daud Ansari R/v- Naruar, Tola Gadhiya, P.S.-
Bhairav Asthan, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Md. Nazir Ansari, Advocate

For the Opposite Party/s : Ms. Sharda Kumari, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 13-03-2023 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
Bhairavshthan P.S. Case No. 77 of 2021 registered for the
offence under Sections 341, 323, 376, 420 and 34 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 05.09.2022.

The allegation against the petitioner is to commit rape
upon victim/informant on false pretext of marriage.

Learned counsel appearing on behalf of the petitioner
submitted that admittedly the physical relationship was



established with consent and as marriage could not negotiated between the parties for any of the reason, the present false case was lodged. It is submitted that informant is both co-villager and relative of the petitioner. It is also submitted that nothing surfaced during the course of investigation, which may suggest that petitioner was not intended to act upon his promise of marriage from very inceptions of his relations with informant/victim and, as such, it cannot be said that the act of petitioner comes under the purview of rape. It is further submitted that there is lot of contradictions appears comparing F.I.R., *qua*, statement of victim as recorded under Section 164 of the Cr.P.C., as in F.I.R. it is stated that rape was committed on several uncounted occasions whereas in her statement, recorded under Section 164 of the Cr.P.C., it is submitted that it was about two occasions when rape was committed upon. It is further submitted that medical report of victim is also not suggesting anything incriminating to suggest that rape was committed upon her and moreover, she was found between the age group of 19 to 20, however, victim is admittedly major as per the F.I.R. itself. While concluding the argument, it has been submitted that petitioner is a man of clean antecedent and moreover, investigation of this case has been completed, for which, charge-



sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP for the State opposes the prayer of bail and submitted that the allegation of rape is specific against this petitioner.

Considering the facts and circumstances as mentioned above, as admittedly the allegation of rape which was raised out of failed negotiation of marriage coupled with the fact that charge-sheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Bhairavshthan P.S. Case No. 77 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 Additional Chief Judicial Magistrate 1st Jhanjharpur, Madhubani/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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