

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71216 of 2022

Arising Out of PS. Case No.-141 Year-2022 Thana- KESARIA District- East Champaran

RANJAN KUMAR @ RANJAN RAM Son of Shukhnandan Ram R/V-
Darmahan, P.S- Kesariya, Dist- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr.Ram Priya Sharan Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 12-04-2023 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 Kesariya
P.S. Case No. 141 of 2022 registered for the offence under
Sections 493, 376, 354(B), 447, 448, 341, 323, 34 of the Indian
Penal Code.

The accused/petitioner is named in the F.I.R. and is in
custody since 29.06.2022.

The allegation against the petitioner is to commit rape
upon informant, aged about 20 years, on the false pretext of
marriage.

Learned counsel appearing on behalf of the petitioner
submitted that petitioner has falsely implicated in the present



case out of local political rivalry. It is submitted that nothing appears from the face of FIR which may suggest that petitioner from very inception not intended to act upon the promise of marriage and, as such, the allegation of rape is not occurring true on its face. It is further submitted that physical relations, admittedly, established out of free will, where statement of victim was not recorded under Section 164 of the Cr.P.C. and also no medical examination was conducted upon her. It is also submitted that even the present FIR was lodged with a delay of 6 days, which is unexplained suggesting only afterthought for false implication, arises out of local political rivalry. Travelling over argument learned counsel relied upon the legal report of Hon'ble Supreme Court, in the matter of **Ansaar Mohammad vs. State of Rajasthan and Anothers (2022 SCC Online SC 886)** wherein, it has been held that entering into any kind of corporeal relationship with a person on the pretext of getting marriage can not be termed as rape. 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 while opposing the prayer of bail



submitted that allegation of rape is available against petitioner, but fairly conceded that as per impugned order dated 21.11.2022, it appears that the statement of victim is not available under Section 164 of the Cr.P.C.

In view of the facts and circumstances as mentioned above, as nothing appears from the face of FIR which may suggest that petitioner not intended to act upon promise of marriage from very inception, in the background of the fact that statement of victim was not recorded under Section 164 of the Cr.P.C. and medical examination was also not conducted upon her 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 Kesariya P.S. Case No. 141 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 Chief Judicial Magistrate, Motihari, District- East Champaran/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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