

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40367 of 2024

Arising Out of PS. Case No.-41 Year-2023 Thana- MAHILA P.S District- Supaul

Lalit Kumar Mandal Son of Munna Mandal @ Ramesh Mandal Resident of
Village - Finglas Chakla (Ward No.- 11), P.S.- Raghapur, District - Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Malti Devi Wife of Arjun Mandal R/O Navipur, Ward no. 4, P.O.- Shahpur,
Pritwi Patti, P.S.- Bhapatiyahi, Distt.- Supaul.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arun Kumar Jha, Adv.
For the Opposite Party/s : Mr. Navin Kr. Pandey, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 18-09-2024 Heard the parties.

2. The petitioner seeks bail in connection with
Supaul Mahila P.S. Case No. 41 of 2023 registered for
the offence under Sections 376, 323, 341, 34 of the
I.P.C. and Section 4 of POCSO Act.

3. The petitioner is named in the F.I.R. and is
in custody since 02.12.2023.

4. The allegation against the petitioner is to
kidnap the minor daughter of the informant along with
other co-accused person for the purpose of illicit
intercourse/marriage.

5. Learned counsel appearing on behalf of the



petitioner submitted that from the mere perusal of statement of victim as recorded under Section 164 of the Cr.P.C., it appears that the present implication were raised only when the petitioner and his family refused marrying the daughter of the informant. It is submitted that as per certificate the date of birth of victim is 01.01.2006, therefore she was aged about 17 years and 10 months old on the date of occurrence. Whereupon the medical examination the doctor found her between the age group of 17-19 years. It is submitted by learned counsel that any corporeal relationship on false pretext of marriage cannot be termed as rape and in support of his submissions he relied upon the legal report as available through ***Ansaar Mohammad vs. State of Rajasthan and Ors.*** reported in ***2022 SSC OnLine SC 886***. While concluding the argument, it is submitted that investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.



6. Learned APP opposes the prayer of bail.

7. In view of aforesaid fact and submission and by taking note of statement of victim as recorded under section 164 of the Cr.P.C. which *prima-facie* suggests that implication of petitioner with present case appears only after refusing for marriage, where investigation of this case is already completed coupled with fact that petitioner is in custody since 02.12.2023, accordingly petitioner above named, is directed to be released on bail in connection with Supaul Mahila P.S. Case No. 41 of 2023 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Addl. Sessions Judge VI cum Special Judge, POCSO Act, Supaul/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C/ Section 480(3) of BNSS.

(Chandra Shekhar Jha, J)

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