

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79649 of 2023

Arising Out of PS. Case No.-63 Year-2022 Thana- MAHILA P.S. District- Madhepura

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Dhiraj Kumar Singh @ Nepali @ Dhiraj Kumar Son of Shailendra Singh @
Manku Singh Resident of Village - Israin Bela Ward No.- 13, P.S.- Shrinagar,
District - Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

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

For the Opposite Party/s : Mr. Sadanand Paswan, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 07-03-2024 1. Heard learned counsel appearing on behalf of

the petitioner and learned Additional Public Prosecutor

appearing on behalf of the State.

2. The accused/petitioner is named in F.I.R.

and apprehending his arrest in connection with

Madhepura Mahila P.S. Case No. 63/2022 registered for

the offences punishable under Sections 341, 323, 376,

504, 506 of the Indian Penal Code and Section 4/6 of

POCSO Act and Sections 3(1)(r)(s)(w)/3(2)(va) of

SC/ST Act.

3. The allegation against this petitioner is to



commit rape/penetrative sexual assault upon victim/informant, aged about 15 years, who is a member of scheduled castes community.

4. Learned counsel appearing on behalf of the petitioner submitted that when due to any of the social reasons marriage of informant/victim could not negotiate finally with petitioner, the present false case of penetrative sexual assault/rape was lodged against him. It is submitted that informant was in love affairs with petitioner, prior to two months of the occurrence and she left her home out of her own sweet will to solemnize marriage with petitioner. It is submitted that after recovery, informant/victim was examined medically on 14.12.2022, where she was not found pregnant, whereafter no occasion was ever made to live together with petitioner and thereafter, two and half months, statement of victim was recorded on 24.02.2023, where she raised allegation of sexual assault and also to become pregnant out of that. It is submitted that



allegation to develop pregnancy is apparently false on its face for the reasons that after conducting medical examination on 14.12.2022 till 24.02.2023, informant/victim was with her parents, where tutoring of informant/victim during such long period cannot be ruled out particularly in view of medical report dated 14.12.2022. It is further submitted that as per medical report, the victim was found between the age of 14-16 years. It is submitted that any corporeal relations on pretext of marriage cannot be categorized as rape and in support of his submission, learned counsel relied upon the report of Hon'ble Supreme Court as reported in the matter of *Ansar Mohammad Vs. State of Rajasthan and Others* reported in *2022 SSC Online SC 886*. While concluding the argument, it is submitted that petitioner is a man of clean antecedent.

5. Learned Spl.P.P. appearing for the State while opposing the prayer of bail submitted that victim stated specifically against this petitioner to commit



rape/penetrative sexual assault upon her but fairly conceded regarding love affairs between the parties and promise of marriage.

6. Considering the aforesaid factual submissions and by taking note of fact as allegation raised out of false promise of marriage, where medical report did not confirm the statement of victim as recorded under Section 164 of the Cr.P.C., *qua* her pregnancy, which was recorded after two and half months of the occurrence, coupled with the fact that petitioner is a man of clean antecedent, accordingly, the above named petitioner, in the event of his arrest or surrender before learned trial court within a period of four weeks, is directed to be released on bail furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-VI-cum-Special Judge POCSO, Madhepura/concerned Court, where the case is pending in connection with Madhepura



Mahila P.S. Case No. 63 of 2022, subject to the conditions as laid down under Section 438(2) of the Cr.P.C., with further conditions:-

“(i) That accused/petitioner shall cooperate in the trial and shall be physically present on each and every date before the trial Court till conclusion of the trial and exemption from physical appearance be allowed by the trial Court, only on medical ground of the petitioner, duly supported by the documents.

(ii) That accused/petitioner shall not interact with victim/informant and also prosecution witnesses in whatsoever manner till the conclusion of trial, failing which the State/informant shall be at liberty to move before the trial Court itself for the cancellation of bail bond of the petitioner.

(iii) That accused/petitioner shall cooperate in investigation, if any.”

(Chandra Shekhar Jha, J)

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