

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62282 of 2024

Arising Out of PS. Case No.-237 Year-2024 Thana- DUMRA District- Sitamarhi

Md. Sartaj Shekh @ Md. Sartaj son of Amzad Reza @ Lal Shekh @ Md. Lal Shekh @ Amajad Raja village- Banchauri, Ps- Dumra, Dist- Sitamarhi

... .. Petitioner

Versus

1. The State of Bihar
2. Tanjila Khatoon Wife of Manjarul @ Md. Manjarul village- and po- Banchauri, Ps- Dumra, Dist- sitamarhi

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Shankar Kumar, Advocate
For the Opposite Party	:	Mr. Ajay Kumar Jha, APP
For the O.P. No. 2	:	Mrs. Maruti Kumari, Adv
		Mr. Ram Hriday Prasad, Adv

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

7 28-03-2025 Heard learned counsel for the petitioner, learned counsel for the informant and learned A.P.P for the State.

2. The petitioner has preferred this application for grant of regular bail in connection with Dumra P.S. Case No. 237/2024 dated 03.06.2024 registered for the offence punishable u/s 376 of the Indian Penal Code and Section 4 of the POCSO Act.

3. As per the prosecution case, the petitioner is alleged to have committed rape on the informant's minor daughter forcibly. On being objected, the petitioner promised to marry her. Further, the petitioner along with other co-accused persons



threatened to kill the informant's daughter.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. There is a delay of two months in lodging the F.I.R. As per para. 28 of the case diary, the victim has refused to undergo medical examination. The informant is not the eye witness of the alleged occurrence. The petitioner has no concern with the alleged occurrence. The petitioner has clean antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 04.07.2024.

5. Learned A.P.P. for the State as well as learned counsel for the informant have vehemently opposed the bail petition of the petitioner by submitting that the victim is a minor girl. The victim in her statement recorded u/s 164 of the Cr.P.C. has supported the prosecution case and has made direct and specific allegation of rape against the petitioner. Thereafter, the petitioner made false promise of marriage with a view to save his skin from the alleged offence. He has relied upon the judgment in the case of ***Karthi @ Karthick Vs. State Represented by Inspector of Police, Tamil Nadu***, reported in ***(2013) 12 S.C.C. 710***, passed in ***Cr. Appeal No. 601 of 2008***, ***decided on July 1,2013*** in which the Hon'ble Apex Court has



held:- Sections 376 and 417 of the I.P.C.-Rape and Cheating-
Obtaining consent for having sex by exercising deceit i.e., false
promise of marriage-Cannot be legitimate defence to exculpate
accused-Promise by accused to marry prosecutrix after
committing rape- Thereafter, accused repeatedly engaged in
consensual sexual intercourse with prosecutrix, at different
places, on false promise of marriage-Eventual refusal by
accused to marry-Prosecutrix divulging incident to her family-
Credible testimony of prosecutrix and other witnesses-
Conviction for rape and cheating, confirmed.”

6. Considering the aforesaid facts and circumstances
of the case as well as the specific and heinous nature of offence
against the petitioner, this Court is not inclined to grant bail to
the petitioner and the same is rejected in connection with Dumra
P.S. Case No. 237/2024 pending in the court of learned
Additional Sessions Judge-VI-cum-Special Judge (POSCO) Act,
Sitamarhi.

7. Learned court below is directed to conclude the
trial of the petitioner at the earliest.

(Chandra Prakash Singh, J)

atul/-

U		T	
---	--	---	--

