

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 38409 of 2015

Arising Out of PS.Case No. -35 Year- 2014 Thana -IMAMGANJ District- GAYA

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Sunil Kumar @ Sunil Kumar Das, Son of Sri Jagdeo Das, Resident of village
Tetariya, P.S. Imamganj, District- Gaya.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 13-04-2016

Heard learned counsel for the parties.

The petitioner seeks bail in Imamganj P.S. Case
No. 35 of 2014 dated 13.05.2014 instituted under Sections
376/493/120B of the Indian Penal Code.

This is the second attempt of the petitioner for
bail as earlier such order was rejected on 04.12.2014 in Cr. Misc.
No. 30370 of 2014.

Learned counsel for the petitioner submits that
though having clean antecedent, the petitioner is in custody since
14.05.2014 in the present case without there being even an iota of
truth in the allegations. It is submitted that as per the compliant
itself, the prosecutrix disclosed that the petitioner and she are
first cousins and this itself exposes the falsehood of the allegation
inasmuch as there could not have been any assurance of marriage
as the relationship is within the prohibited zone for marriage. It is
submitted that the further allegation that the parents of both the



parties were agreeable to the relationship and in fact for the last seven years, the parties were living as ideal husband and wife and the family had also provided a separate room for the same itself is unbelievable in the present context of the society and the social norms and practices. Learned counsel submits that the assertion on the one hand that the family members had approved the relationship and had accepted the couple as husband and wife and on the other hand the allegation that whenever the prosecutrix became pregnant the same was got aborted do not tally as they are self contradictory. Learned counsel submits that the petitioner being in custody and charges even having been framed is suffering for no fault or laches on his part. It is submitted that the compliant case has been lodged with an evil eye on the property of the petitioner. Learned counsel submits that the reason mentioned in the compliant as to why the prosecutrix has lodged the prosecution is that the petitioner side wanted dowry due to which the marriage was not solemnized also is false as such close relationship marriage is prohibited under the statutory, customary as well as social law.

Learned A.P.P. submits that the petitioner was maintaining physical relationship with the prosecutrix for the last seven years and lastly got her pregnant and aborted and did not marry her due to demand of dowry. However, she is not in a position to explain as to how both the sides and family members would have agreed to a marital relationship between first cousins

which is within the prohibit degree of marriage.

Earlier the Court by order dated 20.01.2016 had called for a report from the Court below with regard to the status of the case, pursuant to which report has been submitted dated 19.03.2016 in which it has been stated that commitment itself to the Court of Session was made only on 30.01.2016. Learned counsel submits that the charges have been framed on 30.03.2016 but no witness has yet been examined.

Considering the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Sherghati, Gaya in Imamganj P.S. Case No. 35 of 2014 subject to condition that the petitioner shall cooperate in the trial and be present before the Court on each and every date. Failure to cooperate or appear on two consecutive dates, without sufficient cause, shall lead to cancellation of his bail bonds.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	