

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41669 of 2016

Arising Out of PS.Case No. -20 Year- 2016 Thana -MAHILA PS District- AURANGABAD

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1. Vijay Kumar Sinha Son of Late Chulhan Lal Resident of Village-
Nayabigha, Police Station Town District- Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kamendra Pd. Singh

For the Opposite Party/s : Mr. Sri Nityanand Tiwary

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN
SHARMA
ORAL ORDER

2 06-10-2016 Heard the learned counsel for the petitioner, the

learned A.P.P for the State as also the learned counsel for the

Informant.

The petitioner seeks bail in a case for the offences

punishable under sections 342 and 376 of the I.P.C

Allegedly, the petitioner used to come at the house of

the informant and in that process the petitioner became ready to
marry with the informant and the petitioner called her at Delhi and
accordingly the informant without informing her parents went to
Delhi where she lived for one and half months with the petitioner
and there the petitioner developed physical relationship with her
on the promise to marry with her and thereafter the petitioner left
her near B.L. Endo School on 14.07.2016 with the promise to

marry with her and now he is refusing to marry with her. Similar is the statement of the victim recorded under section 164 Cr.P.C.

Submission is of false implication and that no offence punishable under section 376 I.P.C. is made out as the act of sexual intercourse with consent of a major girl cannot be termed as rape as a consequence of breach of promise, even if it is assumed that there was a breach of promise and as such the petitioner deserves sympathetic consideration. The learned counsel for the petitioner has relied upon the decision in the case of '**Vijayan Vs. State of Kerala**' reported in (2009) 3 Supreme Court Cases (Criminal) page-585 and also in the case of '**Sunil Vishnu Salve & Anr Vs. State of Maharashtra**' reported in 2006 (2) East Criminal Case, page-207, Bombay (AB).

The learned A.P.P. duly assisted by the learned counsel for the informant opposes prayer for bail by submitting that the petitioner after giving false promise on the pretext of marriage committed rape with the informant.

In the facts and circumstances as stated above, considering that the informant is a major girl aged about 26 years and she out of her own will went at Delhi and lived with the petitioner and developed physical relationship with consent on promise of marriage and as such the petitioner is directed to be

released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of S.D.J.M. Aurangabad in Mahila P.S. Case No. 20 of 2016, subject to the conditions that one of the bailors must be a near relative and another having sufficient immovable property within the territorial jurisdiction of the court concerned and the petitioner shall remain present on each and every date during trial and the default on two consecutive dates on his part without any reason shall disentitle the petitioner from privilege of bail.

(Jitendra Mohan Sharma, J)

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