

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27231 of 2016

Arising Out of PS.Case No. -17 Year- 2016 Thana -MAHILA PS District- GAYA

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Pankaj Kumar, Son of Narendar Kumar Verma, Resident of Mohalla- Devi
Asthan, Behind Kishore Vidhalaya, P.S. – Vishnupad, District – Gaya.

.... Petitioner

Versus

1. The State of Bihar
2. Rani Kumari, D/O Pradip Kumar Prajapati, Resident of Mohalla-
Maranpur, P.S. – Vishnupad, Post- Chandchaura, District – Gaya.

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. A.B. Ojha, Sr. Advocate.
Mr. Tabish Sharfuddin, Advocate.

For the Opposite Parties : Mr. Sri Asharaf Ansari, APP.

For the Informant : Mr. Dharendra Kumar Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 23-09-2016 Heard both sides.

The petitioner apprehends his arrest in Mahila P.S. Case
No. 17 of 2016 registered for the offences punishable under
Sections 376, 323 and 34 of the Indian Penal Code and under
Sections 3/4 of the Dowry Prohibition Act.

The victim alleged that for last eight years she was
having love affairs with the petitioner and on the pretext of
marriage the petitioner established sexual relation with her, the
petitioner also assured to marry with the prosecutrix after marriage
of his brother. It is further alleged that marriage of the prosecutrix
with the petitioner was solemnized in a temple. When the
prosecutrix asked the petitioner to allow her to live in his house,

the petitioner on one pretext or other refused to allow her to live with him. When the prosecutrix went to the house of the petitioner mother, brother, father, sister and others assaulted her and drove her out from the house and demanded Rs. 10 lakhs.

Shri A.B. Ojha, learned senior counsel appearing on behalf of the petitioner submits that the facts and the contents in the FIR itself shows that no offence under Section 376 of the Indian Penal Code is made out. The victim is a consenting party. She is a major and she was in love with the petitioner for last eight years. The marriage was solemnized in a temple. The dispute arose only when the prosecutrix wanted to live with the petitioner in his house.

On the other hand, Shri Dharendra Kumar Sinha, learned counsel appearing on behalf of the informant as well as learned APP vehemently opposed the prayer for anticipatory bail of the petitioner and submitted that on the pretext of marriage the petitioner committed rape with the prosecutrix. The prosecutrix in her further statement and the witnesses during course of investigation have invariably stated that the petitioner committed rape with the prosecutrix.

On perusal of the contents of the FIR and the case diary it appears that the prosecutrix herself admitted that she was in love

with the petitioner for last eight years and she had sexual relation with the petitioner but she never objected to such physical relation, consequent thereupon, the marriage was also solemnized between the two in a temple but the dispute arose only when the prosecutrix wanted to live with her husband in his house.

Considering the facts aforesaid, I find that the petitioner deserves anticipatory bail accordingly, the petitioner above named, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the Additional Chief Judicial Magistrate 1st, Gaya in Mahila P.S. Case No. 17 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Prabhat Kumar Jha, J.)

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