

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9368 of 2017

Arising Out of PS.Case No. -382 Year- 2016 Thana -MASAURHI District- PATNA

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1. Md. Tipu Sultan Son of Md. Manzoor @ Riththu, Resident of Mohalla -
Malkana, Police Station- Masaurhi, District- Patna..... Petitioner/s
Versus

1. The State of Bihar Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mirtyunjay Kumar

For the Opposite Party/s : Mr. Sri Shyam Bihari Singh

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

2 12-04-2017 Heard both sides.

The petitioner seeks bail in Masaurhi P.S. case No.
382 of 2016 under Section 376 (1)/34 and other Sections of the
Indian Penal Code.

The victim alleged that petitioner, on the pretext of
marriage, forcibly established physical relation with her. The
petitioner also gave Nikahnama to the victim but, even after much
persuasion, the petitioner did not take the victim to his house.
When the victim went to the house of petitioner, father, mother
and sister of the petitioner did not allow her to enter into the house
and drove her out from there.

The learned counsel for the petitioner submits that
age of the victim is 24 years. The victim, with her consent,
established physical relation with the petitioner. If the petitioner
solemnized marriage after reciting Nikahnama, the victim may file



case for restitution of conjugal rights or may take recourse to other remedies but no case under Section 376 of the IPC is made out.

On the other hand, the learned counsel for the informant as well as the learned Additional Public Prosecutor opposed the prayer for bail and submitted that petitioner does not want to keep his wife although he performed Nikah. The victim is ready to live with the petitioner.

It appears that the victim herself disclosed her age to be 24 years and she alleged that, on the pretext of marriage, the petitioner established physical relation with her and also gave her Nikahnama. This fact, itself shows that victim was a consenting party.

Considering the facts aforesaid and the nature of allegation made against the petitioner, the above named petitioner 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 learned Sub-divisional Judicial Magistrate, Masaurhi, Patna in Masaurhi P.S. Case No. 382 of 2016.

(Prabhat Kumar Jha, J)

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