

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.23504 of 2017

Arising Out of PS.Case No. -10 Year- 2017 Thana -MAHILA PS District- DARBHANGA

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Chand Babu @ Md. Chand Babu, Son of Md. Akhtar, resident of Village- Pathan
Kabai, P.S.- Manigachhi, District- Darbhanga.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Iqbal Asif Niazi, Advocate
For the State : Mr. Zainul Abedin, APP
For the Informant : Mr Sanjeev Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 13-07-2017

Heard learned counsel for the petitioner, learned A.P.P.
for the State and learned counsel for the informant, who has *suo motu*
appeared.

2. The petitioner apprehends arrest in connection with
Darbhanga Mahila P.S. Case No. 10 of 2017 dated 01.02.2017
instituted under Sections 376/323/504/506/34 of the Indian Penal
Code.

3. The allegation against the petitioner is that the



informant was initially raped about a year ago while she had gone to attend the call of nature and when she started weeping, the petitioner assured that he would marry her and thereafter physical relationship continued and later on when the informant went to the house of the accused, he flatly refused to marry her and even abused and assaulted her and thereafter a village *panchaiti* was held where also the petitioner refused to marry the informant.

4. Learned counsel for the petitioner submitted that there are no witnesses to the incident and further when the informant herself was major, the relationship was consensual and thus there was no crime committed by the petitioner. Learned counsel submitted that the case has been filed only to put pressure on the petitioner and his family members for marrying the informant.

5. Learned A.P.P. and learned counsel for the informant submitted that the relationship cannot be considered to be totally voluntary for the reason that initially she was forcibly raped but later on the relationship continued only when the petitioner had assured the informant that he would marry her and by refusing to marry her and going ahead with marriage to another woman, once it became clear that the intention of the petitioner was only to take undue advantage of the informant, this case has been lodged and the allegation levelled is true and correct. Learned counsel further submitted that even the



medical report supports that the informant was in a sexual relationship for some time.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to enlarge the petitioner on anticipatory bail.

7. The application, accordingly, stands dismissed.

8. However, in the event the petitioner surrenders and prays for regular bail before the court below within three weeks from today, the same shall be considered on its own merits, in accordance with law, without being prejudiced by the present order.

(Ahsanuddin Amanullah, J)

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