

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36367 of 2017

Arising Out of PS.Case No. -7 Year- 2015 Thana -MAHILA PS District- JEHANABAD

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Rajesh Kumar, son of Sri Karu Paswan, Resident of Village- Tulsipur, P.S.-
Hulasganj, District- Jehanabad.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ramakant Sharma, Sr.Adv.
Mr. Lakshmi Kant Sharma, Adv.
Mr. Premshankar Kumar, Adv.

For the Opposite Party/s : Mr. Kanhaiya Kishore, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN
PRASAD
ORAL ORDER

2 10-08-2017 Heard learned senior counsel for the petitioner and

learned APP for the State.

The petitioner, in the present case, is seeking regular

bail in connection with Jehanabad Mahila P.S. Case No.7 of 2015,

registered for offences alleged under Sections 376, 313/34 of the

Indian Penal Code.

Learned senior counsel for the petitioner submits

that, in fact, the petitioner happens to be the younger brother of

Jija (sister's husband) of the informant Bibha Kumari. The

allegations in the First Information Report are that this petitioner

had promised the informant to marry and on this pre-text he was

having sexual relationship with the informant for about three



years. It is alleged that the parents of the informant whenever asked this petitioner about the marriage to be solemnized between the petitioner and the informant, the same was postponed on one pretext or another. The informant alleged that, later on, the petitioner and his family members demanded a dowry of Rs.5,00,000/-, in fact, a sum of Rs.2,00,000/- was given by the father of the informant as alleged, but the marriage has not taken place. It is further alleged that the informant had conceived twice, but she was aborted.

Learned senior counsel for the petitioner has referred the 164 Cr.P.C. statement of the informant, as contained in Annexure-2, where she has alleged that the petitioner had promised to marry for last two years and she had gone for abortion at the instance of the petitioner, but later on the petitioner had married one Pinki Kumari. Further documents placed on the record are some sort of affidavit and applications filed in the court below by the informant stating that now both the parties are living peacefully in their own family and even the informant has got married and both the families are living together in congenial atmosphere.

The submission of the learned senior counsel for the petitioner is that on the face of the admitted fact that this



informant was major and had gone for the relationship with her consent, even though the allegation that it was because the petitioner had promised to marry, the allegation of rape cannot be sustained and for the purposes of bail this Court can consider the circumstances that both parties are closely related to each other and the informant had developed intimate relationship with the petitioner, which was well within the knowledge of her parents and for one reason or the another if the marriage could not be arranged the present allegation has been made.

Learned APP opposed the prayer for bail and submits that the petitioner was engaged in having physical relationship with the informant on the pretext of marriage and, therefore, he does not deserve bail.

Considering the facts and circumstances of the case, the relationship which the parties were having leading to the intimate relationship between the petitioner and the informant, the admitted age of the informant being 20 years when she made her statement under Section 164 Cr.P.C. and the mitigating circumstances, which have been brought to the notice of the Court, let the petitioner, namely, Rajesh Kumar be enlarged on bail on his 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, Jehanabad in
connection with Jehanabad Mahila P.S. Case No.7 of 2015,
subject to the conditions U/S 437(3) Cr.P.C.

(Rajeev Ranjan Prasad, J)

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