

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.6841 of 2017

Arising Out of PS.Case No. -22 Year- 2016 Thana -MAHILA P.S. District- BHAGALPUR

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Kiran Kumari, D/o Shiv Kumar Mandal, Resident of Village- Madhuban Tola, P.S.- Pirpainty, District- Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Pawan Kumar Mandal, S/o Kailash Mandal, Resident of village- Madhuban Tola, P.S.- Pirpainty, District- Bhagalpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar Singh, Adv.

For the Opposite Party/s : Mr. Nagendra Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 17-03-2017

Heard the parties.

The opposite party No. 2 has been granted regular bail by the Court of learned Additional Sessions Judge-I-cum-Special Judge, Bhagalpur, in connection with Mahila P.S. Case No. 22 of 2016 registered for the offence punishable under Sections 376 and 420 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act.

The petitioner is the victim of the offence and she seeks cancellation of bail so granted by presenting present



application under Section 439(2) of the Code of Criminal Procedure.

The gist of the allegation against opposite party No. 2 is that he established physical relationship with the petitioner when she was minor on false assurance of marrying her. It appears from the First Information Report itself that except for the allegation of inducement, there is no allegation of use of any force.

Learned counsel for the petitioner has submitted that establishing physical relationship with a minor is a grave offence and invites prosecution for offence punishable under Section 4 of the Protection of Children from Sexual Offences Act, which prescribes for minimum punishment of seven years, which may extend up-to life imprisonment. He has, accordingly, submitted that considering the seriousness of the offence, the court below ought not to have allowed the opposite party No. 2 the privilege of regular bail.

The criteria for grant of bail and cancellation of bail are entirely different. The bail was allowed to the opposite party No. 2 on 07.12.2016. There is no allegation of misuse of privilege of bail so granted to opposite party No. 2.

Considering the nature of accusation in the First Information Report, release of opposite party No. 2 on bail cannot



be said to be wholly unjustified. I do not find any merit in this application.

This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

Praveen-II/-

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