

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.7221 of 2017

Arising Out of PS.Case No. -59 Year- 2016 Thana -BAIRGANIA District- SITAMARHI

=====

Md. Shadab Son of Late Sheikh Salauddin, Resident of Village- Bhakurhar,
P.S.- Bairgania, District- Sitamarhi.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. N.K. Agrawal, Sr. Advocate
Mr. Vijay Anand, Advocate

For the Opposite Party/s : Mr. Satyendra Narayan Singh, APP

=====

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 29-03-2017 Heard learned counsel for the petitioner, learned
counsel for the informant and the learned A.P.P. for the State.

Petitioner is languishing in judicial custody since
25.10.2016 in connection with Bairgania P.S. Case No. 59 of 2016
registered for the offence punishable under Sections 341, 323,
427, 376, 380, 504 and 506/34 of the Indian Penal Code and
Sections 66, 66(A), 67(A) of the I.T. Act.

The prosecution case, as lodged by the father of the
informant, is that his daughter was about to get married to one
Aftab Alam, but the petitioner had forcefully entered into physical
relationship with his daughter and also prepared video-clips of
some intimate relationship with the petitioner and the victim and
had been sent to her husband. The petitioner and his family



members had also assaulted and taken away the house-hold items when the informant's family had gone to complain against the petitioner.

It has been submitted by the learned counsel for the petitioner that he is innocent and has been falsely implicated in the aforesaid case. It has further been submitted that the victim girl in her statement under Section 164 of the Cr.P.C. has stated that she was married to one Aftab Alam on 07.11.2012, but since her husband stayed in Nepal, she started talking with the petitioner, who forcefully entered into physical relationship with her. Learned counsel for the petitioner placed reliance to the case of **Deelip Singh @ Dilip Kumar Vrs. State of Bihar** since reported in **2005(1) PLJR 119 (SC)** and in the case of **State of Madhya Pradesh Vrs. Munna** since reported in **(2016) 1 SCC 696** and submitted that if consented relationship is established between the parties, the case does not come within the ambit of penal law, hence, no case under the aforesaid sections is made out against the petitioner. He further submits in paragraph 19 of this application that he is still ready to marry the informant's daughter, as informant's daughter in her statement under Section 164 of the Cr.P.C. stated that her marriage with her husband, Aftab Alam has broken.



However, learned counsel for the informant submits that the petitioner entered into sexual relationship with the victim on assurance of marriage and has also assaulted the police officer during investigation, hence, opposes the prayer for bail. Learned A.P.P. for the State also opposes the prayer for bail.

Considering the facts and circumstances and the materials on record, let the petitioner, above named, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Sitamarhi in connection with Bairgania P.S. Case No. 59 of 2016, subject to the condition that petitioner will appear before the learned Court below on each and every date and his failure to appear before the learned Court below on two consecutive dates without assigning any reason will entail cancellation of his bail bonds.

(Nilu Agrawal, J.)

Arjun/-

U		T	
---	--	---	--

