

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.8488 of 2017

Arising Out of PS.Case No. -23 Year- 2015 Thana -SAKRI District- MADHUBANI

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Vivek Jha @ Vivek Kumar Jha @ Vivek Kumar, S/o Bhawan Jee Jha,
resident of Village & P.O.- Meghaul, P.S.- Sakari, District- Madhubani.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bimal Kumar Jha, Advocate

For the Opposite Party/s : Mr. Gauri Shankar Gupta, APP

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

6 17-05-2017 Heard learned counsel for the petitioner, learned
counsel for the informant and the learned A.P.P. for the State.

Petitioner apprehends his arrest in connection with
Sakari P.S. Case No. 23 of 2015 registered for the offences
punishable under Sections 323, 363, 366, 376 and 504 of the
Indian Penal Code.

Petitioner had approached this Court earlier in Cr. Misc.
No. 2647 of 2016 along with three other accused persons for grant
of anticipatory bail, but while granting the privilege of bail to
three other co-accused, bail application of the petitioner was
rejected on 04.03.2016.

The prosecution case is that petitioner had sworn an
affidavit and on the basis of that affidavit he got married with the
informant on 24.09.2014 as per the Hindu rites and rituals and
brought her to his home and kept her for 4-5 days and had made



physical relation with her. Later on, co-accused Bhawan Jee Jha started abusing and beating the informant then petitioner took her to her parent's home. However, petitioner kept on having physical relation with the informant even in her maike and co-accused Bhawan Jee Jha continued to torture her even at her maike. On 30.09.2014, petitioner took the informant to the house of co-accused Raman Kumar Mishra at village Andhara Tharhi and on 16.10.2014 she was brought back to her parents' house. On 02.12.2014, he took her to Delhi. On 14.01.2015, he again brought her back and left her at Sakari Railway Station from where she went to her maike.

It has been submitted by the counsel for the petitioner that he is innocent and has committed no offence. It is further submitted that the victim girl being major, as affirmed by the Medical Board, married with the petitioner out of her own sweet will and the stamp paper on which affidavit was sworn by the petitioner and the victim girl was purchased by the father of the victim girl. It has further been submitted that no case under Sections 323, 363, 366, 376 and 504 of the Indian Penal Code is made out against the petitioner because they were husband and wife and no torture was inflicted to the victim girl. He draws my attention to Annexure-11, which is also Annexure-R/2 filed by the informant in the aforesaid case, and submitted that the affidavit



had been sworn on the stamp paper purchased by the father of the victim girl, which fact is not disputed by the counsel appearing on behalf of the informant.

On the other hand, learned counsel for the informant submitted that the marriage between the petitioner and the victim girl is not disputed, but she was subjected to torture and that after the bail application of the petitioner was rejected on 04.03.2016, he has been absconding since then, although charge-sheet has already been submitted.

However, learned A.P.P. for the State opposes the prayer for bail.

Considering the facts and circumstances of the case, I am not inclined to grant the privilege of anticipatory bail to the petitioner. This application is, accordingly, rejected.

However, petitioner is directed to surrender before the Chief Judicial Magistrate, Madhubani within a period of six weeks from today and his bail application shall be considered by the learned Court below preferably on the same day considering the observations made hereinabove.

(Nilu Agrawal, J.)

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