

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42705 of 2018

=====

Abhishek @ Sukesh Kumar, S/o Shri Indra Deo Prasad, R/o Chamandih,
P.S.- Chakand, Dist.- Gaya, Bihar- 804404

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Rana Vikram Singh, Advocate

For the Opposite Party/s : Mr. R.B. Roy Raman, APP

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

4 13-08-2018

Heard learned counsel for the petitioner and the
learned counsel appearing on behalf of the State.

The petitioner is in custody since 18.05.2018 in
connection with Jakkanpur P.S. Case No.211 of 2018 registered
for the offence under Sections 354, 376 and 384 of the Indian
Penal Code.

Learned counsel for the petitioner submits that the
entire case is false and fabricated as no assurance of marriage
has been given by the petitioner. It is further submitted that the
entire story about the petitioner having entered into sexual
relation and having exploited the informant for almost five
years is farfetched as there was common family members in
between them who could have well be taken up the issue and
there was no talk of marriage. It is only when the informant has
got married to a person, that she had taken up the matter public



by putting the petitioner in an awkward position and filed this case making false and frivolous allegations.

So far as the allegation of rape is concerned, admittedly, the informant is a major and at no point of time, she for the last five years has ever made any complaint to any body, leave alone the law enforcement machinery, to support the allegation against the petitioner.

The allegation with regard to making the video viral is also frivolous and no case under the Information and Technology Act has been made out against the petitioner as it is also of mere apprehension at the hands of the informant.

Diary in the present case was called for, which has since been received.

The call detail reports of the petitioner and the informant have also been matched and indicate that the petitioner and the informant did communicate with each other on the alleged date of occurrence, but the mere act of communication cannot merely go to prove that the petitioner was communicating for the sake of issue of extortion threats and/or threatening the informant to come forth and lead a life with him. Till date, nothing has come on the record in the diary regarding the same as the mobile of the petitioner has been



seized by the police.

The videos, which are said to have been made, have neither been seized nor has the police investigated as to whether any video has been prepared for using the same against the informant.

The statement of the victim girl reiterates the allegation as made out in the F.I.R., but no further material has appeared in the case diary to substantiate their relationship in the past. The statement of the *Bhabhi* does not indicate that she was contacted by the petitioner as has been stated in the F.I.R.

Be that as it may and in view of the fact that in the F.I.R., the provisions of I.T. Act is not being added as part of the allegation and in view of the fact that the informant, who is a major, had herself under purported allurements of marriage been an active participant of the sexual relationship between herself and the petitioner, as has been alleged, let the petitioner, above named, be released 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 A.C.J.M. 1st, Patna, in connection with Jakkanpur P.S. Case No.211 of 2018, subject to the following conditions:

(1) One of the bailors will be the father of the petitioner.



(2) The petitioner shall not indulge himself in any similar offence till conclusion of the trial.

(3) The petitioner shall remain physically present in court on each and every date during trial and in the event of his failure on two consecutive dates without sufficient reasons, his bail bonds shall be liable to be cancelled by the learned court concerned.

(4) The petitioner shall co-operate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

It is made clear that the petitioner shall co-operate further in the investigation and shall appear on all dates in the trial, including at the time of framing of charge.

(Anjana Mishra, J)

PNM

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

