

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.56050 of 2018

Arising Out of PS. Case No.-85 Year-2018 Thana- BASOPATTI

District- Madhubani

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SANTOSH KUMAR SAH @ SANTOSH SAH@ SNTOSH KUMAR SAH

Son of Ramchandra Sah Resident of Village- Arghawa, P.S.

Basopati, District- Madhuban.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar

For the Opposite Party/s : Mr. Sri Arun Kumar Pandey

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

2 10-12-2018 The petitioner seeks bail in anticipation of his

arrest in connection with Basopatti P.S. Case No. 85 of

2018 dated 16.04.2018 instituted for the offence under

Section 376 of the Indian Penal Code.

From the F.I.R, it appears that the victim was

subjected to sexual intercourse on the promise of the

petitioner that he will marry her. In the F.I.R, which was

lodged on 16.04.2018, she has disclosed her age to be

nineteen years.



The prayer for anticipatory bail of the petitioner was rejected by the Court below on the ground that the victim was subjected to sexual intercourse on the false pretext of marrying her which clearly constitutes an offence under Section 376 of the Indian Penal Code.

Today in Court, the victim stands represented by her lawyer who has passed on an affidavit of the victim stating that she has married the petitioner on 20.09.2018 in Kalaneshwar Temple. When this Court probe the correctness of the aforesaid statement, it was informed that the victim is present in Court room.

I have interacted with the victim and have also seen her *Aadhar* Card to ascertain her identification. The *Aadhar* Card, however refers to her date of birth as 08.04.2000. This means that the victim has attained the majority only in the month of April, 2018.

In any view of the matter, that date which finds mention in the *Aadhar* Card is the date which would have been provided by her guardian.

In any view of the matter, considering the fact



that now the victim is married to the petitioner and is staying with him as his legally wedded wife, there is no reason to probe any further with respect to the correctness of the statement. The rejection of bail in the present case would only lead to disruption of the family which has just begun.

With this dilemma in mind, this Court, without going into the question whether the first encounter of the victim with the petitioner had taken place when she had not attained the majority, this Court is inclined to grant the petitioner the privilege of anticipatory bail.

For the facts stated above, the petitioner, above named, in the event of his arrest or surrender within a period of four weeks from today before the learned Court below, is directed to be released on bail on his furnishing bail bonds of Rs. 10,000/-(Ten Thousands) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, V, Madhubani in connection with Basopatti P.S. Case No. 85 of 2018, subject to the conditions laid



down under Section 438(2) of the Cr.P.C.

Let the affidavit showing marriage of the victim
with the petitioner and the *Aadhar* Card of the victim be
kept on the record.

(Ashutosh Kumar, J)

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