

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15528 of 2019**

Arising Out of PS. Case No.-822 Year-2017 Thana- COMPLAINT CASE District-
Kishanganj

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Chhote @ Shoyeb Nami @ Soheb Nami , aged about 32 years, Male, Son of
Afaque Ahmad, Resident of Village- Barijan, P.S.- Kochadhaman, District-
Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Musarrat Jahan, D/o Mojibur Rahman, Resident of Village- Barijan, P.S.-
Kochadhaman, District- Kishanganj.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Md. Najmul Hodda
For the Opposite Party/s : Mr.Akhileshwar Dayal

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 13-03-2019 Heard learned counsel for the petitioner, the learned

counsel for the complainant and the learned Additional Public

Prosecutor for the State.

The petitioner apprehends his arrest in Complaint
Case No. C-822 of 2017 for the offences allegedly committed
by the petitioner under Section 376 of the Indian Penal Code.

The complainant alleged that the petitioner taking
advantage of her poverty assured to marry and forcibly
established physical relation with her but later on he refused to
marry.

The learned counsel for the petitioner submits that on
the statement of the complainant, Kishanganj Mahila P.S. Case



No. 18 of 2017 was registered. The police, after investigation, submitted final form finding the accusation false and recommended for proceedings under Sections 182 and 211 of the Indian Penal Code against the informant. Thereafter, the informant filed protest petition on which the present case proceed.

Learned counsel for the petitioner submits that there is no other corroborative material to show that the petitioner established any physical relation with the victim.

Learned counsel for the complainant while vehemently opposing the prayer for anticipatory bail of the petitioner submits that the victim made her statement under Section 164 of Cr.P.C. and she supported her case but the police submitted final form finding the case false. The victim made specific allegation that it was petitioner who on the pretext of marriage forcibly established physical relation with her.

From perusal of the record, it appears victim is a major girl. She of course alleged that on the pretext of marriage the petitioner established physical relation with her but later on refused to marry with the victim. Such accusation made by the victim was thoroughly investigated and the Investigating Officer found the accusation against the petitioner false. Thereafter, the



present case proceeded on protest.

Taking into consideration the aforesaid facts and the fact that the victim is a major and she appears to be a consenting party, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt of the order, be released on bail on furnishing bail bond of Rs.10,000/-(Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned S.D.J.M., Kishanganj in connection with Complaint Case No. C-822 of 2017, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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