

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33342 of 2019

Arising Out of PS. Case No.-3 Year-2019 Thana- ARER District- Madhubani

RUDAL YADAV, aged about 47 years, Male, Son of Late Gudar Yadav
Resident of Village - Kamalpur, P.S.- Rahika, Distt - Madhubani.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s :	Mr. Ramakant Sharma, Sr. Advocate Mr.Lakshmi Kant Sharma, Advocate
For the Opposite Party/s :	Ms.Renu Kumari, A.P.P. Mr. Shailendra Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 27-09-2019 Heard learned Senior Counsel for the petitioner
and learned Additional Public Prosecutor for the State.

The petitioner is seeking anticipatory bail in connection with Arer P.S. Case No. 03 of 2019 registered under Sections 376, 406, 420, 120B of the Indian Penal Code.

Learned Senior Counsel for the petitioner has placed before this court the contents of the written complaint giving rise to the First Information Report. The informant is widow of the brother-in-law of this petitioner. She has alleged that she was got married to a differently abled and ill person namely Rajendra Yadav by this



petitioner and when her husband was disabled to come out of bed this petitioner told the informant that she had three children and she was young so how will she spend her life after death of her husband. He advised this informant to treat him as her husband and promised to marry her after the death of her husband. The informant alleged that because this petitioner was taking care of her responsibilities and was looking after her children, she took him as her husband and established physical relationship with him. She also claims to have given birth to a child out of the said physical relationship with the petitioner. It is her case that after death of her husband when she asked this petitioner to marry her, he refused to marry. Thereafter she has alleged that when the mother-in-law of the informant fell ill, who was also the mother-in-law of the petitioner, and was being treated in Madhubani Hospital, this petitioner got executed a deed of conveyance from her mother-in-law with respect to all the land in the name of his wife Sunita Devi.

Learned Senior Counsel representing the petitioner submits that from the nature of allegations itself it



would appear that the informant was well aware of the fact that this petitioner is married to her Nanad, still according to her allegations, she took this petitioner as her husband and then established physical relationship.

Learned Senior Counsel submits that these allegations are palpably false and cannot be prima-facie believed that the informant will continue to have physical relationship for several years taking this petitioner as husband under an impression that he will marry her after the death of her husband.

Learned Senior Counsel further submits that the allegation that the informant was married to a differently abled person is also false because it has come in course of investigation that her husband was serving in Delhi and out of the said wedlock admittedly the informant had three children. It is submitted that the entire allegations have been made only when the mother-in-law of the informant and this petitioner executed a conveyance deed of eight khatas of land in favour of the minor grand son, who is also the minor son of the informant. Copy of the sale deed has been placed before this court to show that the said deed has been



executed by Most. Dropadi Devi in favour of her minor grand son Shivam Kumar Yadav and the wife of this petitioner has been made guardian of the minor grand son. It is submitted that after the informant came to know about this deed, she has lodged the present case on a totally false and frivolous ground.

Learned A.P.P. for the State has opposed the prayer for anticipatory bail of the petitioner, as according to him, this petitioner had established physical relationship with the informant on a false pretext by giving an allurements that he will marry her after death of her husband. Learned A.P.P. also submits that though a case was lodged on 04.01.2019 but by now process under Section 82 & 83 Cr.P.C. has been issued, therefore, the prayer for anticipatory bail is not fit to be entertained. The certified copy of the order passed by the court below has been placed before this court to show that the process under Section 82 was issued vide order dated 07.03.2019 and process under Section 83 has been issued on 17.05.2019.

Learned Senior Counsel for the petitioner has, at this stage, submitted before this court that after the case was



lodged the petitioner was seeking his remedy of anticipatory bail and for that purpose he had filed anticipatory bail application before the court of learned Sessions Judge, Madhubani which was finally heard and disposed off only on 11.04.2019, thereafter he had moved this court and was seeking his remedy in accordance with law, therefore, in such circumstance the proposition that normally after exhaustion of the process under Section 82 & 83 Cr.P.C. prayer for anticipatory bail would not be entertained would not apply in the facts of the present case, as it is not a case that the petitioner has been absconding for several years and has not submitted to the jurisdiction of the court.

It is further pointed out that on 23.8.2019, the learned coordinate Bench of this court while calling for the Case Diary and Supervision Note had directed that no coercive step shall be taken against the petitioner.

Learned Senior Counsel for the petitioner submits that on the direction of the Inspector General of Police, Darbhanga Region, Deputy Inspector General of Police (Personnel) and Superintendent of Police, Madhubani, the Deputy Superintendent of Police has supervised the case on



17.05.2019 in presence of the Officer-in-Charge and after looking to the various aspects including the CDR and Tower Locations of the mobile number of the informant came to a conclusion that the allegations levelled by the informant that this petitioner had forcibly committed rape seems to be wrong and fabricated.

Considering the facts and circumstances of the case particularly that the petitioner and the informant happened to be closely related, the informant was well aware that the petitioner is married to her *Nanad* and then she claims to have treated this petitioner as her husband and entered into physical relationship allegedly for several years as also that it appears that she claims to have given birth to a child out of that relationship and further there are also materials indicating that dispute has arisen between the parties on account of the execution of a sale deed by the mother-in-law of the informant in favour of her grand son in which she has made the wife of this petitioner guardian as also that this petitioner was seeking his remedy by filing anticipatory bail application immediately after the case was lodged and during pendency of the anticipatory bail



application only the processes under Section 82 & 83 Cr.P.C. have been issued and the learned coordinate Bench has on 23.08.2019 granted interim protection to the petitioner, let the petitioner above-named, in the event of his arrest/surrender before the court below within a period of four weeks, be enlarged on bail furnishing bail bond of Rs. 15,000/- (Rupees Fifteen Thousand only) with two sureties of the like amount each to the satisfaction of learned Munsif-cum-Judicial Magistrate - 1st Class, Benipatti, Madhubani, in connection with Arer P.S. Case No. 03 of 2019. subject to condition prescribed under Section 438(2) of the Code of Criminal Procedure. The petitioner shall report to the Investigating Officer within a period of two weeks from today.

(Rajeev Ranjan Prasad, J)

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