

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.41082 of 2019**

Arising Out of PS. Case No.-390 Year-2018 Thana- DARBHANGA SADAR District-  
Darbhanga

MD. NEMATULLA @ NEMAT Son of Md. Ilyas Resident of Village-Parohi,  
P.S-Bisfi, District-Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Iqbal Asif Niazi  
For the Opposite Party/s : Mr.Ajit Kumar

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA**  
**ORAL ORDER**

2      03-07-2019      Heard learned counsel for the parties.

The petitioner apprehends his arrest in connection with  
Sadar P.S.Case No. 390 of 2018 registered under Sections 366A,  
376, 376D, 379 and 120B of the Indian Penal Code.

Allegation against the petitioner is that while the  
informant was returning home from the shop suddenly, the  
petitioner along with other accused persons dragged her inside a  
Bolero vehicle and administered her some intoxicating  
substance due to which she became unconscious and when she  
regained consciousness, she found herself in a room at Delhi  
and petitioner and other accused persons were present there. It  
has further been alleged that petitioner repeatedly raped the  
informant and co-accused Shahid and Ekram also committed



rape upon her. Thereafter, father of the informant traced her and brought her back to village from Delhi.

Learned counsel for the petitioner submits that initially a complaint was filed by the informant, which was referred to before the police under Section 156(3) of the Cr.P.C. and on that basis present FIR has been instituted. Learned counsel submits that petitioner is innocent and has falsely been implicated in this case inasmuch as the informant was in love with the petitioner and she was in regular contact on mobile with him. In support of his contention, learned counsel Annexed Annexure-3, which is conversation that took place between the petitioner and the informant through S.M.S. as well as other electronic system.

He further submits that informant herself persuaded the petitioner to marry and went to Delhi with the petitioner and with her consent, Nikahnama along with agreement dated 17.04.2018 was prepared, which is Annexure-4 to this application. Learned counsel further referred to certain photographs which have been annexed as Annexure-5 showing that petitioner as well as informant was having cordial relationship. He further submits that the father and brother of the informant had forcibly abducted her from the house of the petitioner and for which he had filed a case for abducting his



wife and also filed a petition before the Delhi High Court for issuance of writ of *habeas corpus* vide WP(CRL) 1886 of 2018.

Learned counsel also submits that prior to lodging of the complaint case on 26.06.2018, informant had filed an application before Darul Kaza Emarate Saria on 23.06.2018 seeking divorce from the petitioner and thereafter with an oblique motive, complaint was filed on 26.06.2018. Further argument of learned counsel for the petitioner is that other co-accused persons, against whom there is allegation of rape, have been granted anticipatory bail by a co-ordinate Bench of this Court vide order dated 08.05.2019 passed in Cr.Misc. No. 30230 of 2019.

After having heard learned counsel for the parties and upon perusal of the documents annexed along with the application, it appears that there was marital relation between the petitioner and the informant, and Nikahnama as well as agreement suggests that petitioner got married with the informant on 17.04.2018. Further Annexure-2 reflects that informant herself filed a petition before the Darul Kaza for seeking divorce from the petitioner and thereafter, she has filed the present case alleging that petitioner, along with other accused persons, has committed rape upon her. Accordingly, I



am inclined to grant anticipatory bail to the petitioner. Let the petitioner, abovenamed, in the event of arrest or surrender before the court below within a period of four weeks from the date of receipt of a copy of this order, be released on bail upon furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned CJM, Darbhanga in connection with Sadar P.S. Case No. 390 of 2018; subject to condition as laid down under Section 438(2) of the Code of Criminal Procedure.

**(Anil Kumar Sinha, J)**

sujit/-

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