

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.58022 of 2018

Arising Out of PS. Case No.-8 Year-2018 Thana- MAHILA P.S. District- Nawada

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Nitish Kumar son of Raj Kumar Mahto @ Anand Prasad @ Raj Kumar
Resident of village - Jeuri Tola, Banganpur, Police Station - Pakribarawan,
District - Nawada.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Shanti Devi wife of Nitish Kumar, D/o Vinod Prasad Resident of village
Mangura, P.S. Nawada, District - Nawada.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Deepak Kumar
For the Opposite Party/s : Mr. Abhay Kumar Roy

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 17-01-2019 Heard learned counsels for the parties.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 376,498A,307 and 323/34 of the IPC.

The prosecution case as per the Complaint Case No. 1245 of 2017 which was ultimately registered as Nawada Mahila P.S. Case No.8 of 2018 after the complaint being transferred under Section 156(3) of the Cr.P.C., is to the effect that the petitioner being the maternal brother of the brother-in-law of the informant Shanti Devi used to visit the house of the informant and subsequently developed intimacy with her. The petitioner promised to marry her and ultimately married her in a temple



and thereafter she went to Delhi and there she stayed for five months but when she became pregnant, the petitioner refused to keep her and ultimately the pregnancy was also terminated.

It is submitted by learned counsel for the petitioner that even assuming the accusation, no case under Section 376 of the IPC is made out because marriage between the informant and the petitioner is admitted and the informant in her own statement has stated that she is major. It is further submitted that the medical report also does not suggest the accusation of rape and now, the issue has been resolved and both are residing together, moreover, a joint compromise petition has also been filed before the learned court below.

The petitioner and the informant are present in Court. The respective counsels submit that the petitioner and the informant are residing together, hence, the informant is not opposing the prayer of the petitioner for anticipatory bail.

Learned counsel for the informant does not controvert the contention of learned counsel for the petitioner. Learned APP after going through the case diary submits that during investigation it transpired that the petitioner and the informant had love affair and they got married in temple but when she became pregnant the petitioner declined to keep her. However,



the medical report does not suggest the commission of rape.

Considering the fact that the petitioner and the informant admit the factum of marriage in temple prior to lodging of the case and at present they are residing together, moreover, the informant is not opposing the prayer of the petitioner for anticipatory bail, let the petitioner above named be released on anticipatory bail in the event of arrest or surrender within 12 weeks on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned SDJM, Nawada in connection with Nawada Mahila P.S. Case No.8 of 2018 subject to the conditions laid down in Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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