

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65822 of 2018

Arising Out of PS. Case No.-165 Year-2018 Thana- GORAUL District- Vaishali

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Pankaj Kumar Son of Prabhu Ram, Resident of Village Akhtiyarpur Sehan,
P.S.- Goraul, Dist.- Vaishali.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Nityanand, Adv

For the Informant : Mr.Bimlesh Kumar Pandey, Adv
Ms. Kanchan Kumari,Adv

For the State : Mr. J.K.Singh, APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

3 28-03-2019 Heard learned counsel for the petitioner, learned counsel for the informant and learned APP for the State.

2. The petitioner apprehends his arrest for the offences alleged under Sections 341/342/379 IPC and subsequently added Sections 376/34 IPC registered in connection with Goraul P.S. Case No. 165 of 2018.

3. It is submitted that the petitioner has been falsely implicated and the ingredients of Section 376 IPC are not made out against the petitioner, considering that the informant is the wife of the petitioner. It is submitted that the parties were married in a temple after due payment of puja donation of Rs. 1,101/- and marriage certificate dated 27.01.2016 issued by the Baba Hariharnath Mandir Nyas Samiti, Harihar Kshetra, Sonapur (Saran). Reliance is placed upon various photographs, copies of which have been enclosed as Annexure-2 series, as well as on an affidavit sworn by the informant on 24.09.2015 (Annexure-3) wherein she is said to have voluntarily solemnised marriage with the petitioner. The informant has also filed a sanha application no. 4288/2015 on 26.09.2015 making allegations against



her parents and other persons to the effect that they were opposing the inter-caste marriage of the informant (Annexure-4). The petitioner has also relied upon a certificate of birth of a female child born to the informant as issued by the Primary Health Centre, Chehrakala, Vaishali, in which the petitioner is shown to be the father (Annexure-5). The petitioner subsequently also lodged a sanha application no. 4215/2017 when the informant left his house along with their daughter (Annexure-6). The mother of the informant had earlier also filed Complaint Case No. 3560 of 2015 against the informant, *inter alia*, alleging that the informant had run away from home with cash and ornaments (Annexure-7). It is therefore, submitted that the informant had voluntarily solemnised marriage with the petitioner on 24.09.2015 and they have since been living together until the informant left the petitioner's house and for which sanha application no. 4215/2017 was filed by him. It is submitted that the FIR has been instituted as late as on 07.06.2018 even though the informant had left the petitioner's house in the year 2017 itself, as is evident from the sanha filed by him. The petitioner claims clean antecedents.

4. Learned counsel for the informant on the other hand submits that she was forcibly taken away by the petitioner along with other persons at the time when she was making preparations for marriage with another person to whom she was engaged. The informant managed to escape on 01.05.2018 and came to her elder sister's house. It is stated that all these facts have been narrated by her in her statement recorded under Section 164 Cr.P.C.

5. Be that as it may, in the event of the petitioner's arrest or surrender before the court below within six weeks from the date of communication of this order, let the above named petitioner be released on provisional anticipatory bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned CJM, Vaishali at Hajipur, in connection with Goraul P.S. Case No. 165 of 2018., subject to the conditions as laid down under Section 438 (2) Cr.P.C. and also subject to the following



further conditions:

- i. That one of the bailors shall be a close relative of the petitioner.
 - ii. That the petitioner shall not indulge in any similar offence till conclusion of the trial.
 - iii. That the petitioner shall co-operate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.
 - iv. The petitioner shall remain physically present in Court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, his bail bond shall be liable to be cancelled by the learned Court concerned.
6. The petitioner undertakes to produce the originals of the documents relied upon by him as enclosed at Annexure-2 series, Annexure-3 and Annexure-5 before the learned Court below within a period of four weeks from today.
7. The provisional bail shall stand confirmed upon verification of the original documents as stated above.
8. In case the petitioner fails to produce any of the original documents within the stipulated period as above, or the same are found to be at variance from the photocopies filed with the anticipatory bail petition, the provisional bail shall stand cancelled.

(Vikash Jain, J)

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