

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58406 of 2019

Arising Out of PS. Case No.-224 Year-2019 Thana- BUDDHACOLONY District- Patna

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SANJAY KUMAR @ SWAMI Son of Sri Daroga Bhagat. Residence of
Village/Mohalla- North Mandiri, P.S.- Buddha Colony, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Shashi Kumar Sharma

For the Opposite Party/s : Mr.Shyam Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

2 20-09-2019 Heard learned counsel for the petitioner and learned
APP for the State, assisted by learned counsel for the informant.

Petitioner seeks bail in a case registered for the
offences punishable under Sections 406, 420, 341, 323, 307,
376, 506, 120(B) of the Indian Penal Code.

Petitioner is by profession an Advocate and he had
appeared in the anticipatory bail matter of the full brothers of
the informant of this case, vide A.B.P. No.2400 of 2018 before
the learned Sessions Judge, Patna, arising out of Khusrupur
Police Station Case No.35 of 2018. A copy of the bail petition
and *Vakalatnama* is at *Annexure 3* to the supplementary
affidavit.

According to F.I.R., the informant is a graduate and
she was in search of a job. From one *Jaikant*, she got the contact



number of this petitioner and thereafter contacted to the petitioner. The petitioner asked for arrangement of Rs.1, 20, 000/- (*Rupees One Lac and Twenty Thousand*) for managing job in the I.G.I.M.S Hospital, Patna. The informant managed the same and paid to the petitioner but the job was not managed. Thereafter, the informant asked for refund of money. The petitioner persuaded her to go with him to Nepal where money would be refunded. At Nepal both were in physical relation, as the petitioner had promised to marry with her. In fact, petitioner put vermilion on her head as token of marriage. The informant accepted the said ritual as marriage and thereafter, both were residing as husband and wife at different places in rented houses for more than two years. The informant got pregnant from this petitioner. Subsequently, the informant came to know that petitioner is already a married person and the differences between the two started and other allegations of assault etc are after that allegation.

Learned counsel for the informant opposed the prayer for bail on the ground that perusal of the allegation makes out a *prima facie* case against the petitioner.

Since the informant was herself a consenting party with full consensus knowing the consequence of the act done by



her, in my view, for the purpose of consideration of prayer for bail the offence under Section 376 of the Indian Penal Code is not made out. Likewise, the informant was herself indulged in managing the backdoor entry in appointment. Hence, she cannot claim protection of the law.

Considering the facts aforesaid, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned court below where the case is pending in connection with Buddha Colony Police Station Case No.224 of 2019, subject to condition that *both the bailors shall be resident of the territorial jurisdiction of the learned court below and the petitioner shall fully co-operate with the investigation/trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the petitioner.*

(Birendra Kumar, J)

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