

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8015 of 2020

Arising Out of PS. Case No.-404 Year-2019 Thana- NAANPUR District- Sitamarhi

ARSAD ALI @ ALI ARSHAD KHAN @ ARSAD ALI KHAN S/o Shakur
Khan @ Sakur Khan Resident of Village- Koilee, P.S.- Nanpur, Distt-
Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shankar Kumar

For the Opposite Party/s : Mr.Ashraf Ansari

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 18-06-2020 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned counsel for the petitioner and Shri Ashraf Ansari, learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with Nanpur P.S. Case No. 404 of 2019 for the offence registered under Sections 420, 376 and 34 of the Indian Penal Code.

The case of the prosecution is that the petitioner herein had entered the house of the informant on 26.10.2019 at about 9:00 P.M. in the night and established physical relation with her. It is further alleged that at about 11:00 P.M. the other accused persons had entered her house and started abusing the mother of the informant and had assaulted the informant and her mother



whereafter they had taken away the petitioner herein by dragging him. It is also alleged that two years back, while the informant was alone at her home, the petitioner had committed rape with her and thereafter had continued to rape her for six months while threatening her with dire consequences. It is also alleged that the petitioner no. 1 had then promised to marry her and on the said false assurance had been committing rape with the informant since the past two years, however, subsequently the petitioner refused to marry her.

The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case and is having a clean antecedent. It is further submitted that the matter has been settled, marriage has been solemnized in between the informant and the petitioner herein and in fact the petitioner is also pregnant.

Per contra, the learned A.P.P. for the State has vehemently opposed the prayer for bail.

I have heard the learned counsel for the parties and perused the materials on record as also the case diary.

Considering the facts and circumstances of the case as also the averment of the petitioner that he has already solemnized marriage with the informant, I deem it fit and proper



to direct the petitioner to surrender before the learned court below within a period of two weeks from today, whereupon he shall be granted provisional bail by the learned court of Sub-Divisional Judicial Magistrate, Pupri at Sitamarhi in connection with Nanpur P.S. Case No. 404 of 2019, after verification of the fact that as to whether marriage has been solemnized in between the petitioner and the informant or not. It is further directed that before releasing the petitioner on provisional bail, the learned court below shall take an undertaking from the petitioner to the effect that he would keep the informant with due honour and dignity. It is also directed that in case the learned court below finds that marriage has actually been solemnized in between the parties, it shall then keep the petitioner under watch for a period of one year, whereafter it shall decide with regard to either confirming the provisional bail to be granted to the petitioner or revoking the same. It is further directed that for a period of two weeks from today, no coercive action shall be taken against the petitioner herein.

(Mohit Kumar Shah, J)

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