

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10366 of 2020

Arising Out of PS. Case No.-26 Year-2019 Thana- MAHILA PS District- Gaya

ASHUTOSH KUMAR Son of Raj Kumar Thakur Resident of Village -
Chakand Bazar, Patwa Toli, P.S.- Chakand, Distt - Gaya.

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ramashish, Advocate
For the informant	:	Mr. Ajay Kumar Sinha, Advocate
For the Opposite Party/s	:	Mr. Nawal Kishore Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 23-09-2020 Heard Mr. Ramashish, learned counsel for the petitioner, Mr. Ajay Kumar Sinha, learned counsel for the informant and Mr. Nawal Kishore Prasad, learned Additional Public Prosecutor appearing for the State through video conferencing.

Petitioner apprehends arrest in connection with Mahila P.S. Case No. 26 of 2019 registered on 19.09.2019 for the offences punishable under Sections 498(A), 376/34 of the Indian Penal Code and Section 3/4 of Dowry Prohibition Act.

The allegation against the petitioner as per the First Information Report lodged by the informant Bibha Kumari is that she was married to Vikash Kumar @ Guddu in the year 2016 who happens to be the brother of the petitioner. It has



further been alleged that husband of the informant was killed on 25.11.2018 and after the death of her husband she stayed at her matrimonial home together with a minor baby girl. It has further been alleged that her in-laws decided to solemnize marriage with her brother-in-law i.e. petitioner and upon pretext of solemnizing marriage, petitioner started making physical relationship with the informant. Subsequently the accused persons did not agree to marry the informant and demanded Rs.10,00,000/- as dowry.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in this case with oblique motive in order to put pressure upon the petitioner and his family members. Learned counsel further submits that after the death of husband of the informant, she started living in her father's house and never came to her matrimonial home. He further submits that the informant along with her family members started pressurizing the petitioner and his family to agree to solemnize the marriage of the petitioner with the informant. Learned counsel referring to Annexure-2 submits that owing to the threatening made to the petitioner and his family members, the petitioner has filed Informatory Petition on 10.07.2019 before learned Chief Judicial Magistrate, Gaya,



being Informatory Petition No. 1908 of 2019. Learned counsel also referring to Annexure-3 submits that father of the petitioner had sent a legal notice to the informant and her family members on 17.7.2019, but no reply was received from them. Learned counsel further submits that the Police after investigation has not found the allegation under Section 376 of the Indian Penal Code true.

Learned counsel for the informant on the other hand, vehemently opposes the prayer for anticipatory bail and submits that there is specific allegation of committing rape upon the petitioner on the pretext of marriage and the statement of informant has also been recorded under Section 164 Cr. P.C. in which she has supported the prosecution story.

Having regard to the submissions made by the parties and taking into consideration the materials on record and also the fact that the Police after investigation has not found the allegation under Section 376 I.P.C. true, I am inclined to grant anticipatory bail to the petitioner.

Accordingly, in the event of arrest or surrender before the court below within six weeks from today, petitioner, above named, shall be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like



amount each to the satisfaction of learned Sub Divisional Judicial Magistrate, Gaya, in connection with Mahila P.S. Case No. 26 of 2019, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure.

It is made clear that at the time of furnishing bails bonds all the parties shall follow the guidelines regarding lockdown and social distancing.

(Anil Kumar Sinha, J)

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