

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.14295 of 2020**

Arising Out of PS. Case No.-339 Year-2019 Thana- KATIHAR District- Katihar

Jayant Kumar Das @ Jittu Das, aged about 35 years, Male, son of Pradip Das,  
resident of village - Bania Tola, Ward No.32, P.S.- Katihar Town, Dist.- Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

|                            |   |                               |
|----------------------------|---|-------------------------------|
| For the Petitioner/s       | : | Mr. N K Agrawal, Sr. Advocate |
|                            |   | Ms. Preety Kunwar, Advocate   |
| For the Opposite Party/s : |   | Mr. Madhura Nand Jha, APP     |

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**  
**ORAL JUDGMENT**

**Date : 22-06-2020**

The matter has been heard *via* video conferencing due  
to lockdown imposed on account of the COVID-19 pandemic.

2. Heard Mr. N K Agrawal, learned senior counsel  
along with Ms. Preety Kunwar, learned counsel for the  
petitioner and Mr. Madhura Nand Jha, learned Additional Public  
Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner is in custody in connection with  
Katihar Town PS Case No.339 of 2019 dated 01.06.2019  
instituted under Sections 496, 313, 323, 376, 504/34 of the  
Indian Penal Code.

4. The allegation against the petitioner is that he had  
established physical relationship with the informant for the last  
six years on the pretext of marriage and she had become



pregnant a few time, but it was aborted at the behest of the petitioner and lastly, when she came to know that marriage of the petitioner was being fixed somewhere else, she had confronted him and he refused to marry her and when the informant along with her family members had gone to the house of the petitioner, they were abused and assaulted.

5. Learned counsel for the petitioner submitted that the allegation is false as for six years the informant is said to have waited on the pretext that the petitioner would marry her, which appears to be improbable. It was further submitted that the informant has alleged that the incident occurred on 25.04.2018, but report was lodged with the *Mahila* Police on 14.05.2018 and thereafter it is said that an affidavit was sworn by the petitioner accepting the marriage. Learned counsel submitted that the case has been filed only on 28.09.2018 after the petitioner had filed a matrimonial case for cancellation of the said affidavit which was taken under duress. Learned counsel submitted that the petitioner having no other criminal antecedent is in custody since 18.12.2019. It was further submitted that the father of the petitioner has also filed Informatory Petition before the CJM, Katihar, on 28.04.2018 alleging about the scene created at their house by the informant



and her family members.

6. Mr. Madhura Nand Jha, learned APP submitted that the allegation against the petitioner is that he had established physical relationship. It was further submitted that the biggest indication of truth in the allegation would be the fact that before the *Mahila* Police, the petitioner had affirmed an affidavit accepting that the parties had married, which cannot be under duress for the reason that the police is neutral and there was no occasion for the police to have forced the affidavit from the petitioner. Learned counsel further submitted that the petitioner having resiled from the same and then filing a matrimonial case for cancellation of the said affidavit itself shows that he had misled the informant into believing that he would marry her, which he later refused. Learned counsel submitted that the Informatory Petition before the CJM is also after three days and clearly there is no explanation as to why the informant and her family members would come to the house of the petitioner and create a scene and ask them for marriage knowing fully well that in today's time, marriages cannot be forced just because one party wants it. It was further submitted that there was no occasion for the victim i.e., the informant to damage her reputation forever by stating that she had been in physical



relationship for over six years, which clearly amounts to shutting her doors for any future marriage as in today’s society, a girl with such background is almost condemned forever. Learned counsel submitted that, in fact, it cannot be believed that the family members of the informant would go to the house of the petitioner and try to forcibly settle the marriage, which is absolutely untenable and unbelievable.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to enlarge the petitioner on bail.

8. Accordingly, the application stands dismissed.

**(Ahsanuddin Amanullah, J)**

J. Alam/-

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