

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23644 of 2020

Arising Out of PS. Case No.-15 Year-2019 Thana- MAHILA P.S. District- Banka

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RAMESH YADAV @ RAMESH KR. YADAV Son of Sukhdeo Yadav
Resident of Village - Hardiya, P.S.- Chandan (Anandpur), District - Banka.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ajay Mukherjee

For the Opposite Party/s : Mr. Pranav Kumar

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 04-11-2020 Heard learned Counsel for the petitioner and learned

Additional Public Prosecutor representing the State, through

Video Conferencing.

The petitioner seeks regular bail in connection with
Banka (Mahila) Police Station Case No. 15 of 2019, registered
for the offences punishable under Sections 493/376 of the Indian
Penal Code and Section 4 of the Protection of Children from
Sexual Offences Act, 2012

The allegation, as per the First Information Report, is
that the petitioner committed rape upon the informant, aged
about 16 years, and when the informant protested, the petitioner
promised to marry the informant and thereafter the petitioner
continued to establish physical relationship with the informant
on the promise of marriage, but the petitioner subsequently



refused to marry the informant.

Learned Counsel for the petitioner submits that the petitioner has falsely been implicated in this case inasmuch as the present First Information Report has been lodged just on the date of marriage of the petitioner with another girl. He further submits that there was consensual physical relationship between the petitioner and the informant and the petitioner has not committed rape upon the informant.

On the other hand, learned Additional Public Prosecutor submits that from perusal of the First Information Report, it would be evident that the petitioner committed rape upon the informant, who was minor, and thereafter made a false promise to marry the informant and on that false promise, he continued to establish physical relationship with the informant. He further submits that from the very inception, the intention of the petitioner was not to marry the informant and the consent of the informant was not a consent as per Section 90 of the Indian Penal Code inasmuch as firstly the consent of a minor is no consent and subsequently, the consent was based upon misconception of fact and the informant was engaged in physical relationship on the basis of false promise of marriage and her consent, if any, was based upon misconception of fact



and the sexual act on the part of the petitioner amounts to rape.

Learned Counsel for the petitioner, in reply, submits that there was a compromise between the informant and the petitioner and a joint compromise petition has been annexed as Annexure-3 to this application

After having heard learned Counsel for the parties and taking into consideration the materials on record and the fact that the informant was minor at the time when the petitioner committed rape upon her and the consent of the informant, if any, was obtained on the basis of false promise of marriage, I am not inclined to grant bail to the petitioner at this stage.

This application is, accordingly, dismissed.

However, the petitioner may renew his application for bail after one year from today if the trial does not show any progress.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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