

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27892 of 2020

Arising Out of PS. Case No.-48 Year-2020 Thana- NAANPUR District- Sitamarhi

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RISHIKESH KUMAR @ KUNDAN KUMAR Son of Vijay Rai Resident of
Village- Gaura, P.S.- Nanpur, District- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Neeraj Kumar Alias Sanidh
For the State	:	Mr. Bhanu Pratap, APP
For the Informant	:	Mr. Dharendra Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 15-12-2020 Heard the learned counsel for the petitioner, the

learned counsel for the informant Shri Dharendra Kumar and

Shri Bhanu Pratap, the learned A.P.P. appearing for the State.

The petitioner seeks regular bail in connection with

Nanpur P.S. Case No. 48 of 2020 for the offence punishable

under Sections 376 and 493 of the Indian Penal Code.

The case of the prosecution, as per the written

complaint of the informant namely Arati Kumari, is that the

petitioner was having love

brother had caught them red handed, whereafter their marriage was solemnized, however, subsequently the petitioner refused to keep her despite having established physical relationship for couple of years.

The learned counsel for the petitioner has submitted that the petitioner is innocent, has been falsely implicated in the present case, is having a clean antecedent and is languishing in custody since 17.02.2020. The learned counsel for the petitioner has further submitted that though the date of occurrence is mentioned as 13.02.2020, the FIR has been belatedly lodged on 16.02.2020 and moreover, at best the present case can be stated to be that of non-acceptance of marriage inasmuch as the marriage of the informant and the petitioner is alleged to have been solemnized on 14.02.2019, with regard to which the marriage certificate is on record of the case, however, the allegation of rape is false and concocted. It is further submitted that the statement of the victim girl recorded under Section 164 Cr. P.C., before the learned Magistrate, clearly shows that the present case is a case of non-acceptance of marriage. Lastly, it is submitted that the informant has disclosed her age before the learned Magistrate as 19 years, hence, no offence is made out as alleged, inasmuch as both the



informant and the petitioner are having a consensual relationship.

Per contra, the learned counsel for the informant and the learned Additional Public Prosecutor for the State have vehemently opposed the prayer for regular bail, made by the petitioner.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the parties and taking into account the fact that the victim girl is major and the relationship amongst the victim girl and the petitioner appears to be consensual in nature, apart from the fact that the materials available on record as also those available in the case diary demonstrates that there is some dispute about acceptance of the marriage solemnized in between the victim girl and the petitioner herein, I find that prima facie there is miniscule evidence on record to prima facie constitute the offences as alleged, hence, I deem it fit and proper to direct for release of the petitioner on regular bail.

Accordingly, the petitioner, above named, is directed to be released on regular bail on furnishing bail-bonds of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of learned S.D.J.M., Pupari at Sitamarhi in



connection with Nanpur P.S. Case No. 48 of 2020.

(Mohit Kumar Shah, J)

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