

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32017 of 2020

Arising Out of PS. Case No.-93 Year-2019 Thana- SULTANGANJ District- Bhagalpur

Sunil Kumar, Son of Mahesh Chandra Das Resident of Village- Tilakpur,
Police Station- Sultanganj, District- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Najmul Hodda- Advocate
For the State : Ms. Sharda Kumari- A.P.P.

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

ORAL ORDER

2 08-12-2020 The office has pointed out several defects to which learned counsel for the petitioner assures that he shall remove the defects within four weeks from the date when Court starts physical function.

Heard learned counsel appearing for the petitioner as well as learned Additional Public Prosecutor appearing for the State through video conferencing.

Petitioner is in custody since 23.04.2019 and seeks bail in connection with Sessions Trial No.552 of 2019 arising out of Sultanganj (Sadar) P. S. Case No.93 of 2019 registered for the offences punishable under Section 376 of the I.P.C.

Earlier, the bail prayer of the petitioner was rejected by a Coordinate Bench of this Court vide order dated



25.10.2019 passed in Cr. Misc. No.60409 of 2019, but submission on behalf of the petitioner is that while rejecting the bail prayer of the petitioner, the learned Bench of this Court did not consider the arguments raised on behalf of the petitioner and rejected the bail prayer of the petitioner in summary manner without considering the facts and circumstances of the case.

Learned counsel for the petitioner further submits that the written report of informant goes to show that at the time of institution of F.I.R., she was aged about 29 years and she claimed that she was in physical relationship with petitioner since last ten years and, therefore, even if, the aforesaid claim of informant assumed to be true, then also she was major when she first established physical relationship with the petitioner and, therefore, the aforesaid circumstance clearly indicates that the informant was a consenting party and, therefore, no case under Section 376 of the I.P.C. is made out.

Learned counsel for the petitioner further submits that petitioner is in jail custody since long and there is no possibility of conclusion of trial of the petitioner in near future.

On the other hand, learned Additional Public Prosecutor opposed the prayer submitting that there is specific allegation against the petitioner that he established physical



relationship with informant on false promise of marriage.

Considering the aforesaid submissions of the parties as well as facts and circumstances of the case and also keeping in mind the period of detention of the petitioner in jail custody, let the petitioner, above named, be released on bail provisionally till four weeks from the date when the Court starts physical function, on furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge, Bhagalpur in connection with Sessions Trial No.552 of 2019 arising out of Sultanganj (Sadar) P. S. Case No.93 of 2019.

However, it is made clear that if, petitioner removes the defects within the above stated period, the provisional bail shall be deemed to be confirmed.

(Hemant Kumar Srivastava, J)

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