

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74879 of 2019

Arising Out of PS. Case No.-9 Year-2019 Thana- MAHILA PS District- Darbhanga

MOHAN SAHNI Son of Bishambhar Sahni Resident of Village - Mahdouli
Ram Bag, Ward No.-23, P.S.- Laheriasarai, District- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vinay Kumar Mishra

For the Opposite Party/s : Mr.Narendra Kumar Singh

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

6 05-06-2020 The matter has been taken up through virtual court proceeding.

Heard learned counsels for the petitioner and State.

The petitioner, being the brother of the informant's husband, who is languishing in custody since 27.08.2019, has preferred the present application for grant of bail in a case registered for the offences punishable under Sections 323, 313, 376 and 498A/34 of the IPC.

The prosecution case, as per the written report of Kamini Devi, Submitted to the S.H.O., Laheriyasarai Mahila Police Station is to the effect that the informant was married with one Mukesh Sahni in the year 2011 and thereafter they were blessed with two children. In the year 2014, all of a sudden, the husband of the informant died. Subsequently, on assurance of the in-laws people, the informant started residing in



her in-laws' house. The informant was also assured by the in-laws family members that she will be get married with the brother of the husband of the informant, Mohan Sahni, the petitioner. It is alleged that the petitioner established physical relationship with the informant on promise of marriage, as a result, she got pregnant and when she started pressurizing the petitioner to marry, the in-laws people asked her to get the pregnancy terminated and thereafter, the petitioner refused to marry with the informant.

It appears that a co-ordinate bench of this Court, vide order dated 04.12.2019, issued notice to opposite party no.2. The office note dated 17.02.2020 reflects that notices were received by the mother of the informant, thereafter vide order dated 17.02.2020, a co-ordinate bench of this Court permitted the learned counsel for the petitioner to file supplementary affidavit with regard to jointness of the informant with her mother. Thereafter, vide order dated 16.03.2020, on filing of affidavit with regard to jointness of the informant with her mother, treating the notice validly served, the application was directed to be listed for admission. The matter is running on daily cause list since last several days. Today also no one is appearing on behalf of the opposite party no.2.



It is submitted by learned counsel for the petitioner that in the background of dispute with regard to the share of the property, the accusation has been levelled. There is no medical proof with regard to the termination of the pregnancy or the victim being got pregnant between 2014 to 2019. It appears unreasonable that for five years no complaint was made before any authority. The investigation has already been concluded and a statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP submits that the accusation of the informant of establishing physical relationship on assurance of marriage and getting the pregnancy terminated is specific against the petitioner, however, there is no documentary proof with regard to the pregnancy of the informant or its termination.

Considering the accusation being not corroborated by any medical opinion and investigation already being concluded, let the petitioner above named be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned SDJM, Darbhanga, in connection with Mahila P.S. Case No. 09 of 2019.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail



bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties including one surety given at the time of provisional bail of the like amount each to the satisfaction of learned SDJM, Darbhanga, in connection with Mahila P.S. Case No. 09 of 2019.

The learned Court below will be at liberty to extend the further period of provisional bail if the lockdown is not over in next three months.

(Dinesh Kumar Singh, J)

Amrendra/-

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