

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76455 of 2019**

Arising Out of PS. Case No.-354 Year-2019 Thana- GAYA MUFASIL District- Gaya

VISHAL KUMAR S/o Uday Paswan R/o village- Tapsi, P.S.- Moffasil,
District- Gaya

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Deepak Kumar, Adv.

For the Opposite Party/s : Mr. J. N. Thakur, APP

**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER**

5 19-06-2020 Heard learned counsel for the petitioner and learned
APP for the State.

The matter has been taken up through virtual Court proceeding.

Considering the supplementary affidavit filed on behalf of the petitioner to the effect that the petitioner had to appear in the intermediate examination on 03.02.2020, a Co-ordinate bench of this Court vide order dated 29.01.2020, granted provisional bail for two months to the petitioner. Though after expiry of period of two months, the petitioner was required to surrender before the learned Court below and to file a surrender certificate in this Court latest by 10th April, 2020, but it is submitted that due to present pandemic, Covid-19, his surrender was not accepted, hence, he could not file the required surrender certificate in time. But, ultimately, his surrender has



been accepted on 18.06.2020.

The petitioner has preferred the present application for grant of bail in a case registered for the offence punishable under Section 366A of the Indian Penal Code.

The prosecution case as per the written report of Munna Lal Kumar submitted before the S.H.O., Gaya Muffasil Police Station is to the effect that on 31.07.2019 at 4.00 A.M., the wife of the informant, namely, Soni Kumari eloped with the petitioner, as she had illicit relationship with him since last several months. Though, the informant tried to convince her wife, even her wife's family members were informed and they also tried to convince her, but she did not mend her ways. On 29.07.2019, the informant noticed a mobile phone in the hand of his wife which was given by this petitioner, though the informant snatched the said mobile phone from her wife. It is alleged that on 31.07.2019, the informant's wife eloped with the petitioner after taking jewellery, Rs.30,000/- cash and other articles from the house of the informant.

It is submitted by learned counsel for the petitioner that the the informant's wife developed some intimacy with the petitioner and hence she, on her own, eloped with him. Subsequently, she herself returned back to her house and under



pressure, she stated in her statement recorded under Section 164 Cr.P.C. that she was enticed away by the petitioner. Moreover, for the alleged occurrence of 31.07.2019, the FIR was registered on 02.08.2019 which itself clouds the *bona fide* of the accusation against the petitioner. Moreover, the medical report of the victim suggests her age between 18-19 years, no injury has been found and the doctor has opined that there is no positive sign of rape on the body of the victim. The petitioner is languishing in custody since 09.08.2019 and the investigation has already been concluded. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP for the State submits that the accusation is specific against the petitioner that he eloped with the wife of the informant.

Considering the fact that from the FIR, it appears that the victim was a consenting party to elopment, delayed lodging of the FIR, the investigation already being concluded coupled with statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, 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 CJM, Gaya, in connection with Muffasil P.S. Case No. 354 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 the learned CJM, Gaya, in connection with Muffasil P.S. Case No. 354 of 2019.

The learned Court below will further be at liberty to extend the period of provisional bail further if the court proceeding in physical mode will not resume in next three months.

(Dinesh Kumar Singh, J)

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