

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13661 of 2021

Arising Out of PS. Case No.-355 Year-2019 Thana- RAMPUR District- Gaya

UPENDRA KUMAR Son of Sita Yadav Resident of Village- Bageya, P.S.-
Imamganj, District- Gaya.

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kundan Kumar, Adv
For the Opposite Party/s : Ms. Meena Singh, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 31-08-2021 In view of sudden resurgence of COVID – 19
infection there is limited functioning of the High Court and
therefore the matter has been listed for consideration through
virtual mode.

Heard learned counsel for the petitioner and learned
APP for the State.

This Court would expect that the petitioner's
Counsel would honour his undertaking in the instant
proceedings regarding supply of requisite court fee etc. within
two weeks from the date he is called upon to do so by the office.

Petitioner seeks bail in connection with Rampur P.S.
Case No. 355 of 2019 registered under Section 376 of the Indian
Penal Code.

The informant has alleged that the petitioner had



approached her in May, 2019 asking that the petitioner's sister be allowed to stay with her at the rented house in Patna for pursuing her study. It is thereafter alleged that the petitioner while visiting his sister has tried to take undue advantage and establish forcible physical relation. The informant has kept quite due to social considerations. One month later, on 2.10.2019 the petitioner has again allegedly established physical relation forcibly thereafter the FIR has been lodged.

It is submitted by learned counsel for the petitioner that FIR is based on extraneous considerations as the informant was expecting her marriage to be finalised with the instant petitioner, but same could not happen. FIR has been lodged three days after the alleged occurrence that is on 5.10.2019. In para 8 of the case diary, evidence has come to suggest that there was no tenancy in favour of the informant on 5.5.2019. The agreement is of June, 2019 and therefore the entire prosecution case that the petitioner had gone to request the informant for allowing his sister to stay with her, in May, 2019 stands belied. In para 9 the land-lord has stated that he has never seen the petitioner visiting the premises and there is stark inconsistency between the version of occurrence as stated in the FIR and statement of the victim under Section 164 Cr.P.C.. In the



statement recorded under Section 164 Cr.P.C. she has stated that in October the petitioner had gone with his cousin whereas there is no such allegation in the FIR. The submission is that having no criminal antecedent and under such circumstances the petitioner has remained in custody since 3.11.2020.

Learned APP has opposed the prayer for bail. He has submitted that the petitioner has tried to take undue advantage.

Considering the rival submissions as also the facts and circumstances of the case, this Court for the purposes of grant of bail is inclined to accept the submissions advanced by the petitioner's counsel. Prayer for bail of the petitioner is allowed. Let the petitioner above named be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Gaya in Rampur P.S. Case No. 355 of 2019, subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on



each date and if he fails to do so on two consecutive dates, his
bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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