

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27134 of 2021

Arising Out of PS. Case No.-39 Year-2020 Thana- MAHILA P.S. District- Sheohar

MD. NAKIBULLAH Son of Md. Nasrullah Resident of Village - Ijorbara,
P.S.- Phenhara, Distt.- East Chaparan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manoj Kumar

For the Opposite Party/s : Mr.APP.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 24-11-2021 Heard learned counsel for the petitioner and learned
counsel for the informant and learned APP for the State.

Petitioner seeks bail in connection Sheohar Mahila P.S.
Case no. 39 of 2020 registered for the offence punishable under
sections 493, 376, 120B of the Indian Penal Code read with
sections 3/ 4 of the Dowry Prohibition Act.

Learned counsel for the petitioner submits that
petitioner is in custody since 24.11.2020 and is person with
clean antecedent and charge sheet has been submitted. Learned
counsel for the petitioner submits that from perusal of the
allegation as alleged in the FIR, it would manifest that the
informant alleges that she was married with one Javiullah at the
age of 10 years but her husband was suffering mentally as a
result of which informant took divorce. Thereafter, it is alleged



that in the year 2018 this petitioner revealed his desire to marry with the informant to which parents and his sister also agreed and thereafter it is alleged that petitioner established physical relation with the informant and started living as husband and wife. It is further alleged that Rs 2,25,000/- was given to the petitioner for performing marriage but later on petitioner demanded Rs 5 lac. Learned counsel for the petitioner submits that informant is a lady of 22 years and she was capable of understanding the consequences of her action. Learned counsel further submits that relationship between the petitioner and the informant was consort and it does not stand to reason that petitioner would demand Rs 5 lac by way of dowry for performing marriage. Learned counsel for the petitioner next submits that it is not a case of rape rather two consenting adults came into relationship and later on when relationship became sour, present case came to be instituted.

Learned counsel for the informant vehemently opposed the prayer for bail and submitted that it is case of rape but is unable to meet the submissions of learned counsel for the petitioner that the informant is major and she was understanding the relationship.

Considering the facts that petitioner is in jail custody



since 24.11.2020, charge sheet has been submitted and is a person with clean antecedent and relationship from perusal of the allegation prima facie appears to be peaceful, the petitioner is directed to 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 the Sub divisional Judicial Magistrate, Sheohar in Sheohar Mahila P.S. Case no. 39 of 2020.

(Satyavrat Verma, J)

s.hassan/-

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