

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.20379 of 2020**

Arising Out of PS. Case No.-875 Year-2019 Thana- SONEPUR District- Saran

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SANOJ KUMAR @ SANOJ RAI Son of Devki Rai Resident of Village -  
Paharichak, P.S.- Sonpur, District- Saran at Chapra

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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**Appearance :**

|                          |   |                                  |
|--------------------------|---|----------------------------------|
| For the Petitioner/s     | : | Mr. Prabhakar Singh, Advocate    |
| For the Opposite Party/s | : | Mr. Parmeshwar Mehta, APP        |
|                          | : | Mr. Ashok Kumar Mishra, Advocate |

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**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR**  
**ORAL ORDER**

4      17-08-2021                      Heard Mr. Prabhakar Singh, learned Advocate  
for the petitioner and Mr. Ashok Kumar Mishra, for the  
informant. The State is represented by Mr. Parmeshwar  
Mehta, learned APP for the State.

The petitioner seeks bail in anticipation of his  
arrest in connection with Sonepur P.S. Case No. 875 of  
2019 dated 29.10.2019 instituted for the offences under  
Sections 376, 420 and 494 of the Indian Penal Code  
and Sections 3/4 of the Dowry Prohibition Act.

The accusation in the FIR is that the marriage  
of the prosecutrix was fixed with the petitioner but  
before the marriage could be solemnized, the petitioner  
subjected her to sexual intercourse with her consent. On



one occasion, when she was found with the petitioner, she was married to him because of the pressure of the villagers. Later, the petitioner is said to have run away from the matrimonial home. The prosecutrix/informant learnt that the petitioner has married one Rina Kumari while the marriage with her still subsisted.

The FIR further discloses that the mother of the petitioner has filed a case against the parents of the informant for kidnapping the petitioner.

Learned counsel for the petitioner has submitted that from the narration given in the FIR itself, it would appear that an absolutely false case has been lodged against him. It was a gun-point marriage where the petitioner was abducted and was forcibly kept in the house of the prosecutrix. Somehow or the other, he could manage to effect his escape but in the meantime, the subject FIR has been lodged with the allegation of rape.

Learned counsel for the petitioner has further submitted that initially and in the first instance, a case under Section 498A IPC was registered by the prosecutrix. Later, the subject FIR was lodged with the accusation of rape. He, therefore, submits that the two accusations cannot be reconciled and if one is true, the other is false. He further submits that the very act of



filing the second FIR reflects the intention of the prosecutrix as also her family members to anyhow bamboozle the petitioner into succumbing to the desire of the prosecutrix to be kept as his legally wedded wife.

As noted above, the mother of the prosecutrix has also filed a case against the parents of the prosecutrix.

As opposed to the aforesaid contention, Mr. Mishra, learned counsel for the informant has submitted that the petitioner, being in service, has contracted another marriage which in itself is an offence and therefore assuming every other allegation in the FIR to be debatable and subject to verification, he does not deserve to be granted anticipatory bail. He further submits that since the informant is the legally wedded wife of the petitioner in the event of the case of abduction and the factum of gun-point marriage not having been fully substantiated or verified to be true, the opposite party no. 2 ought to be maintained by the petitioner as an act of *beau-geste*.

Having heard the counsel for the parties, what strikes to this Court in the first instance is the manner in which the FIR has been lodged with the accusation of rape against the petitioner. Was it with respect to rape with the prosecutrix or that the informant is alluding to



sexual relationship with another woman with whom the petitioner is alleged to have contracted marriage. If the informant was married to the petitioner and she was later abandoned for which Section 498A case has been registered, it is difficult to infer from the subject FIR that the victim was subjected to rape during the period when the petitioner and the wife had been staying separately.

The manner in which the petitioner is sought to be prosecuted further gives an impression that the truth lies somewhere else.

For the reasons aforesaid, the petitioner is directed to be released on bail, in the event of his arrest or surrender before the court below within a period of eight weeks from the date of receipt/production of a copy of this order, on his furnishing bail bonds in the sum of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Saran at Chapra in connection with Sonapur P.S. Case No. 875 of 2019, subject to the conditions as laid down under Section 438(2) Cr.P.C.

However, it is cautioned that the petitioner shall participate in the investigation or the trial as the case may be. Any move on the part of the petitioner to either silence the informant or harass her or impede the process of investigation or trial as the case may be,



would render the bail granted to him liable to be cancelled.

**(Ashutosh Kumar, J)**

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