

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23568 of 2020

Arising Out of PS. Case No.-197 Year-2019 Thana- MAHILA P.S. District- Nalanda

Sammi Kapoor @ Raja, Son of Ram Lakhan Ravidas, Resident of Village -
Mouza Rampur Sinday, P.S. Barbigha, District Shekhpura.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Soni Kumari, D/O Krishna Ravidas, Village - Mouza Nalanda, P.S. - Silaw,
District - Nalanda.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manohar Prasad Singh, Adv.
For the Opposite Party no.1: Ms. Gulnar Begum, APP
For the Opposite Party no.2: Mr.Raj Kumar Prasad, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 08-01-2021 Heard learned counsel for the petitioner, learned
counsel representing the opposite party no.2 and Ms. Gulnar
Begum, learned APP for the State.

Case diary has been received and learned APP has
gone through the same.

In this case on 07.10.2020, this Court, while issuing
notice to the opposite party no.2, passed the following order:-

“Learned counsel for the petitioner
undertakes to remove all the defects pointed
out by Stamp Reporter within four weeks
after start of normal functioning of the Court.
Heard learned counsel for the petitioner and
Ms. Gulnar Begum, learned APP for the
State.

The petitioner in the present case is seeking



pre-arrest bail in connection with Mahila P.S. Case No. 197 of 2019 registered for the offences punishable under Sections 376, 420 of the Indian Penal Code.

Learned counsel for the petitioner submits that on reading of the First Information Report it will appear that at first instance the allegation is that the marriage between the petitioner and the informant had been fixed and on account of the said arranged marriage fixed between the parties, the father of the informant had given a sum of Rs.1,20,000/- and it was agreed that the marriage will be solemnised after this petitioner will get a job. It is alleged that the petitioner got a job in a private company but thereafter he refused to marry the informant and demanded a sum of Rs.5 lakhs in cash and one motorcycle. Since the father of the informant was not in a position to meet the demands, he requested the petitioner to return the sum of Rs.1,20,000/- but the petitioner was neither marrying nor returning the amount.

It is also disclosed that the father of the informant had given the amount about 5 years ago to the petitioner's family. In the concluding part of the FIR, it is alleged that during the said period the informant was staying in Bihar Sharif and there the petitioner used to call her on mobile and also visited her and at his instance saying that now they are going to marry, the petitioner and the



informant had established physical relationship.

Learned counsel for the petitioner submits that in the FIR the age of the informant has been disclosed as 23 years and if the 5 years is taken into consideration then at the time of the negotiation of marriage between the petitioner and the informant, the informant was not less than 18 years, thus, she was an adult. After 5 years now she is coming with an allegation that at the relevant time this petitioner had established physical relationship with her which seems to be an after thought only because at first instance she has herself stated that her father wanted refund of Rs.1,20,000/- which was not returned to him and that seems to be a reason for filing of the FIR with false allegations of establishing physical relationship, moreover there is no specific allegation that Rs.1,20,000/- was handed over to this petitioner.

Learned APP for the State has opposed the prayer for anticipatory bail of the petitioner.

Call for a legible carbon/photostat copy of the case diary of Mahila P.S. Case No. 197 of 2019 from the court of learned S.D.J.M. Nalanda at Bihar Sharif.

Issue notice to Opposite Party No. 2 by both through ordinary process as well as under registered cover with A/D for which requisites etc. must be filed within four



weeks from today in the registry. On filing of the requisites, the office shall issue notice to O.P. No. 2.

Till next hearing, no coercive action shall be taken against the petitioner in connection with Mahila P.S. Case No. 197 of 2019 provided the petitioner appears before the investigating officer of this case within two weeks from today and present himself for interrogation as and when required. An affidavit showing compliance of this order be filed by the petitioner within three weeks from today before this Court failing which the interim protection shall not be available to the petitioner.

List this case on 15th December, 2020 with case diary.”

In today’s hearing, learned counsel for the petitioner has reiterated that the allegation of establishing physical relationship with the informant has been made after about five years after breaking of the alleged negotiation of marriage and from the materials on record it would appear that the petitioner was adult at the time of the alleged occurrence. Learned counsel submits that the fact that the informant was adult and she has come out with this case after five years, this Court may appreciate that her immediate concern while lodging the FIR is to extract some money from the petitioner. The Court has also been informed that the petitioner has already been married on



12.07.2016 whereas the FIR has been lodged at least three years after the marriage of the petitioner.

Learned counsel further submits that in the First Information Report the informant has claimed that she was studying at Biharsharif but in course of investigation the investigating officer has not collected any material showing that the informant was studying in any school or college at Biharsharif. It is, thus, submitted that at this stage, this case has been lodged with sole intention to harass this petitioner.

Learned counsel for the opposite party no.2 has opposed the prayer for pre-arrest bail of the petitioner. Learned counsel submits that after the marriage was fixed between the petitioner and the opposite party no.2, this petitioner was visiting at Biharsharif where the opposite party no.2 was residing and there he had established physical relationship with her. Learned counsel for the opposite party no.2 however, does not dispute that at the relevant time she was adult. Learned counsel for the opposite party no.2 is also unable to disclose the qualification of the informant and that in which school or college she was studying at Biharsharif.

Learned APP for the State has though opposed the prayer for anticipatory bail of the petitioner but after going



through the case diary, learned APP has informed that in course of investigation no material has come to show that the informant was studying in any school or college at Biharsharif. This Court has further been informed that even in her 164 Cr.P.C. statement the informant has not disclosed this.

In the given facts and circumstances of the case having noticed that as per the declaration of her age in the First Information Report itself the informant was adult when her marriage was fixed, it is claimed that she was studying at Biharsharif, but neither she has disclosed as to in which school or college she was studying and further that the present case has been lodged five years after the alleged negotiation for marriage had broken, the immediate concern as it appears from the FIR is that of realization of money, this Court is inclined to grant privilege of pre-arrest bail to the petitioner. Let the petitioner above-named in the event of his arrest or surrender within a period of four weeks from today in connection with Mahila P.S. Case No.197/2019 be released on bail on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned S.D.J.M., Nalanda at Biharsharif, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. i.e.



(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

