

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM OFFICIAL CHAMBERS VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.30969 of 2020**

Arising Out of PS. Case No.-42 Year-2020 Thana- SHAHKUND District- Bhagalpur

SIYA RAM MANDAL, S/o Roshan Mandal, R/o Village-Shivrampur, P.S.-
Shahkund, District-Bhagalpur. Petitioner

Versus

1. The State of Bihar
2. Usha Kumar, D/o Dinesh Mandal, R/o Village-Shivrampur, P.S.-Shahkund,
District-Bhagalpur.

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	Mr.Praveen Kumar Agrawal, Advocate
For the Opposite Party/s	:	Mr. Tarkeshwar Nath Thakur, A.P.P.
For the Informant	:	Mr. Vivekanand Vivek, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

9 13-09-2021 Learned counsel for the petitioner undertakes to

remove all the defects as pointed out by office within four

weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner, learned
counsel for the informant and Mr. Tarkeshwar Nath Thakur,
learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in
connection with Shahkund P.S. Case No. 42 of 2020 registered
for the offence punishable under Section 366(A), 323, 328, 504,
506, 379/34, 376 of the Indian Penal Code and $\frac{3}{4}$ of Dowry
Prohibition Act and Section 4 of the POCSO Act. He is in
custody since 04.03.2020.

As per the complaint petition giving rise to the present

case the petitioner allured the informant in his love and compelled her to leave her house with cash, ornaments and clothes. The petitioner solemnized marriage with her in a temple on 18.11.2019 after taking seven steps before the sacred fire and put vermilion on her head. It is alleged that after keeping her for about 10 days the co-accused who is mother of the petitioner was torturing her. Allegations of torture have been made against some other co-accused as well. It is alleged that the family members of the informant had accepted the marriage but for non-fulfillment of the demand of dowry the informant was being tortured and the mother and father of the petitioner were not ready to accept her as their daughter-in-law. It is then alleged that the Chowkidar of Shahpur Police Station brought the complainant/informant and the petitioner in the Police Station where the mother and Bhabhi were also called, some signatures were taken on piece of papers and thereafter they were left to go saying that the complainant is minor.

Learned counsel for the petitioner submits that in the medical examination the victim girl has been found between 17-19 years of age and the allegations in the complaint petition categorically show that she claims to have married with this petitioner on her own in a temple. The allegations have been

made that she was compelled in love to leave her house but those are only ornamental kind of allegations. It is submitted that the petitioner has remained in jail for over one and half year in connection with the present case and in the nature of allegations as also the materials collected in course of investigation, the petitioners deserves privilege of bail.

Learned counsel for the informant has submitted before this Court that during pendency of this application the family members of the petitioner as also the petitioner has sworn affidavit stating that after release of the petitioner from jail he will solemnize marriage in accordance with the tradition and Hindu laws and shall keep the informant as his wife.

Learned counsel for the petitioner has hastened to add that the copy of counter affidavit has not been served upon him, thus, he is not aware of any such development.

Mr. Tarkeshwar Nath Thakur, learned A.P.P. for the State has opposed the prayer for regular bail of the petitioner.

In the facts and circumstances of the case, the nature of allegations mentioned in the complaint petition giving rise to the present F.I.R. and the fact that the petitioner has remained in jail for over one and half year in connection with this case, this Court directs release of the petitioner above named on bail on

furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Special Judge, POCSO Act, Bhagalpur in connection with POCSO Case No. 27 of 2020 arising out of Shahkund P.S. Case No. 42 of 2020, subject to the condition as laid down under Section 437 (3) Cr.P.C.

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.

And further condition that after release on bail, the petitioner shall not come in contact with the informant/victim and her family during trial and violation of this condition shall invite action towards cancellation of bail.

(Rajeev Ranjan Prasad, J)

vats/-

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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'.