

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32395 of 2020

Arising Out of PS. Case No.-200 Year-2019 Thana- BASANTPUR District- Siwan

SACHIN KUMAR @ SACHIN PRASAD S/o Ravindra Prasad @ Rabindra Prasad R/o village- Bansauhi, P.S.- Basantpur, District- Siwan

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bijay Prakash Singh, Advocate
For the Opposite Party/s : Mr. Md. Aslam Ansari, APP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 19-01-2021 Heard Mr. Bijay Prakash Singh, learned Advocate for the petitioner and Mr. Md. Aslam Ansari, learned APP for the State.

The petitioner seeks bail in connection with Basantpur P.S. Case No. 200 of 2019 dated 12.06.2019 instituted for the offences under Sections 363, 366, 376, 323, 504 and 120(B) of the Indian Penal Code.

The allegation in the FIR is that the victim was taken away to Jaipur by the petitioner and his family members on the pretext of marrying her. She has further alleged that marriage took place in a temple in Jaipur but thereafter the petitioner started ill-treating her. Because of the sexual relationship between the petitioner and the victim, she became pregnant whereafter she was abandoned.



Learned counsel for the petitioner has submitted that from the averment made in the FIR, few things become very clear. The victim has stated her age to be 20 years. She went to Jaipur and got married to the petitioner in a temple. If this were not a consented act, the victim could have asked for help. That not having been done by her, it can be safely presumed that till the time the marriage took place, the victim had consented to the same. This rules out the application of the Sections of the IPC which deal with kidnapping of a person.

So far as sexual relationship between the parties are concerned, it has been argued that the allegations would not make out a case of rape as the sexual relationship is alleged to have been established after the marriage of the petitioner with the victim in the temple. That the petitioner is alleged to have abandoned the victim and her newly born child would make out a case under different Sections of the IPC but definitely not under Sections 366 and 376 of the IPC.

Considering the aforementioned arguments and taking into account the period of custody of the petitioner which is from 11.02.2020, this Court is inclined to grant bail to the petitioner.

While saying so the Court has also taken note



of the statement of independent witnesses during the course of investigation who have clarified that out of love relationship between the petitioner and the victim, marriage took place but thereafter because of some dispute, the spouses are staying separately.

The petitioner is directed to be released on bail 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, Siwan in connection with Basantpur P.S. Case No. 200 of 2019.

However, it is made clear that the petitioner shall not, after coming out of jail, try to tamper with the evidence or threaten the witnesses or shall ever try to delay the conclusion of trial in the event of the case going to trial. Should he do so, the bail granted to the petitioner would liable to be cancelled.

(Ashutosh Kumar, J)

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