

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32554 of 2020

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

Md. Akbar, Son of Md. Hashim @ Baichan, Resident of Village - Kumhiya,
Police Station - Palasi, District - Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Rana, Advocate
For the Opposite Party/s : Mr. Shyam Kumar Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

3 08-01-2021 Heard learned counsel for the petitioner and learned
APP for the State.

Petitioner seeks bail in a case registered for the
offences punishable under Sections 376, 354A, 342 and 313/34
of the Indian Penal Code.

Allegation against the petitioner is of sexual
exploitation of the victim by pretending that the petitioner
would marry with the victim. Later on, marriage was refused
and miscarriage of the child in the womb of the victim was also
done.

Learned counsel for the petitioner submits that during
investigation, the witnesses have stated before the police that
both were consenting parties. Some other witnesses stated that
there was property dispute between the two, hence, false case
has been lodged. The parties have entered into a compromise



after *Panchayati* dated 05.03.2020. Petitioner is in custody since 19.05.2020. Investigation of the case against the petitioner is already complete.

Law is well settled that consent obtained by fraud is no consent. The independent witnesses are not competent to controvert the victim that her consent was obtained by fraud. Victim has supported the aforesaid allegation under Section 164 Cr.P.C. Hence, I am not inclined to enlarge the petitioner on bail in connection with Araria (Mahila) P.S. Case No. 39 of 2020, G.R. No. 1667 of 2020 pending in the Court of learned Sub-Divisional Judicial Magistrate, Araria/successor Court.

Learned Trial Court is directed to expedite the trial of the case.

(Birendra Kumar, J)

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