

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35856 of 2020

Arising Out of PS. Case No.-49 Year-2020 Thana- KARTAHA District- Vaishali

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ANAND MOHAN SON OF SHANKAR SINGH, RESIDENT OF VILLAGE
- GHATARO, POLICE STATION- KARTAHA, DISTRICT- VAISHALI.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Bindhyachal Singh, Sr. Adv.
For the State	:	Ms. Renu Kumari, APP
For the Informant	:	Mr. Rudal Prasad, Adv.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

5 24-06-2021 Heard learned senior counsel for the petitioner,

learned A.P.P. and learned counsel for the informant through

Video Conferencing.

The petitioner apprehends his arrest in Kartaha P.S.

Case No.49 of 2020 registered under Sections 376, 504 and 506

of the Indian Penal Code.

The informant alleged that she is a married lady and

got two children. She developed friendship with Anand Mohan
(petitioner) about three years ago through Facebook. On
12.03.2019 petitioner called her on the eve of marriage of his
sister. At about 11:00 in the night, petitioner gave cold drink to
the informant and after taking cold drink, she became
unconscious. Thereafter the petitioner and his brother-in-law

Manoj Singh established physical relation with her. Manoj Singh prepared videography. She further alleged that Anand Mohan blackmailed her and also extracted Rs.5 lacs. They also threatened to kill her and her children.

Learned counsel for the petitioner submits that admittedly according to the allegations made in the F.I.R., the victim is a major married woman and she herself developed friendship with the petitioner through Facebook. At no point of point, it can be said that the petitioner committed rape with her. The informant herself developed extra marital relation with the petitioner. The informant (prosecutrix) disclosed that first incident of sexual intercourse took place on 12.03.2019 but she kept mum and she filed the case only on 12.06.2020 i.e. after more than one year. No offence under Section 376 of the I.P.C. is made out. The informant filed the case only to extract money from the petitioner and pressurize him to marry. Therefore, the petitioner deserves anticipatory bail.

Learned A.P.P. as well as Mr. Rudal Prasad, learned counsel for the informant vehemently opposed the prayer for anticipatory bail and submitted that the victim herself disclosed that on 12.03.2019 when the victim went to the house of petitioner on the eve of marriage of his sister, the petitioner after

intoxicating her committed rape with her along with his brother-in-law and thereafter on one pretext or other the petitioner continued to have physical relation with her. Therefore, the petitioner does not deserve anticipatory bail.

Having considered the submissions of both sides and on perusal of the F.I.R. as well as the case-diary, it appears that the victim, who is a married woman, developed friendship with the petitioner and on whose request, she went to the house of the petitioner on the eve of marriage of his sister but she alleged that on 12.03.2019 the petitioner along with his brother-in-law forcibly established physical relation with her. Even on the next day, the informant (prosecutrix) did not inform the police. She kept mum and allowed the petitioner to have physical relation for more than a year. Thereafter the victim filed the case. On the face of it, it appears that the victim, who is a major married lady, had consensual sex with the petitioner although the petitioner denied the allegation.

Taking into consideration the facts aforesaid, the petitioner, above named, in the event of his arrest or surrender before the learned court below within a period of four weeks from the date of receipt/production of a copy of this order, is directed to be enlarged on bail on furnishing bail bond of

Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Vaishali at Hajipur in connection with Kartaha P.S. Case No.49 of 2020, subject to the conditions as laid down under Section 438 (2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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