

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.39047 of 2020**

Arising Out of PS. Case No.-134 Year-2020 Thana- BASOPATTI District- Madhubani

Budheshwar Mandal Son Of Mundi Mandal Alias Munni Mandal Resident Of
Village Basopatti (NAWAKA Tol), P.S.- Basopatti, District Madhubani

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar,Advocate

For the Opposite Party/s : Mr.Ajay Kumar Jha,APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 23-07-2021 Learned counsel for the petitioner undertakes to remove all the defects pointed out by the Stamp Reporter within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr. Ajay Kumar Jha, learned APP for the State.

The petitioner in the present case is seeking regular bail in connection with Basopatti P.S. Case No. 134 of 2020 registered for the offences punishable under Section 366 (A) of the Indian Penal Code.

As per the prosecution story, on 25.6.2020, the wife of the informant had gone to meet the call of nature, in the meantime, the petitioner forcibly taken her away with him to his sister's house where he established illicit relationship with her.

Learned counsel for the petitioner submits that in this case the victim lady is a married woman who is major. According to the



First Information Report though it is alleged that this petitioner had forcibly taken away the victim lady on 25.06.2020 when she had gone to meet the call of nature, in fact the victim lady has left her husband's place on her own volition.

Learned counsel further submits that although in her statement under Section 164 Cr.P.C. the victim lady has alleged that this petitioner had forcibly taken her to his sister's place and had established physical relationship and then left her saying that he cannot marry her because she was already married, the statement of the victim lady shows that she had prior acquaintance with this petitioner and only after the petitioner refused to marry her because she was a married woman, this false case has been lodged.

It is stated that the alleged occurrence took place on 25.6.2020, the victim lady is said to have returned home on the very next day in the morning hour but the FIR was lodged on 27.06.2020 at 4.30 p.m. Two days thereafter the statement under Section 164 Cr.P.C. was recorded. Therefore, it is apparent that she was tutored to make statements alleging that the petitioner had established physical relationship with her.

Learned counsel further submits that in course of investigation, police has not found sufficient material to chargesheet the petitioner under Section 376 IPC and the chargesheet has been filed under Section 366 of the Indian Penal Code only.

Learned counsel further informed that the victim lady later



on herself filed an affidavit in learned court below showing that she had made the allegations under some pressure.

Learned APP for State has though opposed the prayer for regular bail of the petitioner but considering the facts and circumstances of the case, the shifting stand of the victim lady, the fact that she happens to be major and married woman, delay in lodging of the FIR and the chargesheet has been filed only under Section 366 IPC, the petitioner has remained in custody in connection with this case since 27.06.2020, investigation against him is complete, let the petitioner above named be released on bail on furnishing of bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties of the like amount each to the satisfaction of learned Court of learned J.M. 1st Class, Madhubani in connection with Basopatti P.S. Case No. 134 of 2020, subject to the conditions as laid down under Section 437(3) Cr.P.C. as under:

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which is suspected, and

(c) that such persons shall not directly or indirectly make and 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 or tamper with the evidence.



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.

The application stands allowed.

(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'.

