

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.413 of 2021

Arising Out of PS. Case No.-21 Year-2020 Thana- MAHILA P.S. District- Araria

Rohil Late Md. Ekram R/O Village- Purwari Jhirwa, Ward No. 10, P.S.-
Simraha, District- Araria

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Nafisuzzoha, Advocate

For the Opposite Party/s : Mr. Ram Naresh Ray, APP

For the Informant : Mr. Ranjeet Choubey, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 14-12-2021 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, learned counsel for the informant who has entered appearance on her own and Mr. Ram Naresh Ray, learned APP for the State.

The petitioner in the present case is seeking pre-arrest bail in connection with Araria Mahila P.S. Case No. 21 of 2020 registered for the offences punishable under Sections 376 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act. The petitioner has no criminal antecedent.

Learned counsel for the petitioner submits that the informant and the petitioner are co-villagers. As per allegations, on 23.02.2020 at about 09:00 P.M. when she had gone to the backside of her house to meet the call of nature, this petitioner established



physical relationship with her. The informant claims that she started shouting whereupon the petitioner assured her that he will marry her, thereafter he continued to make relationship for next 3 days. The informant thereafter alleges that when she asked the petitioner to solemnized marriage, he refused and thereafter she disclosed this fact to her mother. The informant alleges that a *panchayati* was also held, however, the petitioner demanded a sum of Rs.2 lakhs as dowry and because the informant's side was unable to pay dowry amount, the petitioner refused to marry her.

Learned counsel submits that this is a case of false implication and the informant has indulged in fabricating a case against the petitioner only to pressurize him to marry her. In the FIR, she has disclosed her age as 18 years. In her 164 Cr.P.C. statement before the learned Magistrate, the informant disclosed her age as 17 years. In her 164 Cr.P.C. statement, the informant alleges that when she was alone in her house as her mother had gone for shopping, the petitioner entered into her house took her to *baspatti* and committed rape on her. She further claimed that when she shouted then one Samsher and Sikandar came there and they took her to her house. She further claimed that the petitioner and the informant are in love affair with each other and the petitioner had committed rape on her after promising her to marry.

Learned counsel submits that the informant concealed



material fact from the court in order to fabricate a case which would be evident from the fact appearing from Annexure '2' which is a copy of the petition filed in Maintenance Case No. 13M/2018 under Section 125 Cr.P.C. This petition was filed by the present informant claiming her age as 20 years in the year 2018. She claimed that she was married to one Md. Majid on 02.12.2015 and after marriage when she came to her *sasural*, she was mentally and physically tortured by the father, mother, brother and *sotan*.

Learned counsel submits that the fact that the informant has concealed her age and earlier marital status makes her credibility doubtful.

Learned counsel submits that apparently, the informant is major and she admits her love affair with the petitioner, the immediate proximate cause for filing of the FIR is the refusal to marry.

Learned counsel for the informant has though opposed the prayer for anticipatory bail of the petitioner but learned counsel has repeatedly admitted at the Bar that the informant is major and earlier she was married and in fact with that the maintenance case as per Annexure '2' is also filed.

Learned APP has also opposed the prayer for anticipatory bail of the petitioner.

Taking into consideration the materials placed before



this Court, the age of the informant showing from the documents placed before this Court as she is a major and then her own statement that she is in love affair with this petitioner, to some extent also changing the narratives of the case in her statement under Section 164 Cr.P.C., this Court is inclined to direct the petitioner above named in the event of his arrest or surrender within four weeks from today be released on bail on furnishing of bail bond of Rs.25,000/- (Rupees Twenty Five Thousand/-) with two sureties of the like amount each to the satisfaction of learned S.D.J.M., Araria in connection with Araria Mahila P.S. Case No. 21 of 2020, subject to the conditions as laid down under Section 438(2) 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.

(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'.

