

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11085 of 2021

Arising Out of PS. Case No.-173 Year-2019 Thana- BAJPATTI District- Sitamarhi

Raghunath Sah @ Raghunandan Sah S/O Mahendra Sah, Resident of Village
- Bangaon Bazar Ward No. -12, P.S. - Bajpatti, Dist. - Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr.Anand Kishore Choudhary, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

5 16-08-2021 In view of the sudden resurgence of Covid-19 infection, there is limited functioning of the High Court and, therefore, the matter has been listed today for consideration through virtual mode.

Learned counsel for the petitioner is expected to honour his undertaking given in the instant case for depositing the requisite court fee and to remove the defects as pointed out by office when called upon to do so by the office.

Heard learned counsel for the petitioner, learned A.P.P for the State as well as learned counsel for the informant.

The petitioner seeks bail in Bajpatti P.S. Case No.173 of 2019, which has wrongly been stated as Parihar P.S. Case no. 127/2020 in the prayer portion of the petition, instituted for the offence under Sections 341, 323, 376, 504 and 506 of the Indian Penal Code and Sections 4 and 6 of the POCSO Act.

On allurement of solemnizing marriage, it is alleged that



the petitioner has been establishing physical relationship with the victim, who is a minor.

Learned counsel for the petitioner submits that it is a case of false implication based on extraneous considerations. The prosecution story itself appears to be highly improbable that for seven months, the parents or anybody at home did not realise that the victim was carrying pregnancy. The petitioner has, in fact, denied that he is responsible for the pregnancy. Under these circumstances, both parties earlier had agreed to undergo D.N.A Test.

Today learned counsel for the petitioner and learned counsel for the informant admit that their samples for D.N.A. Test have been taken. The petitioner continues to be in custody since 13.11.2019. In the aforesaid circumstances, subject to final outcome of the D.N.A. Test, this Court would allow provisional bail to the petitioner for three months. In case, the petitioner is found to be responsible for pregnancy, it is submitted that the petitioner would have no objection in solemnizing marriage with the victim.

Learned APP and learned counsel for the informant have opposed the prayer for bail.

Considering the rival submissions as also the facts and



circumstances of the case, let the petitioner, above named, be released on provisional bail for three months on furnishing bail bond of Rs. 10,000/-(Ten thousand) with two sureties of the like amount each to the satisfaction of the learned A.D.J. VI, Sitamarhi in connection with Bajpatti P.S. Case No.173 of 2019, subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

The court below should review the position after three months. In case of amicable settlement, the provisional bail granted to the petitioner shall be confirmed by the court below. Otherwise the court below would be free to pass orders in accordance with law, which may include cancellation of provisional bail granted to the petitioner.

(Madhuresh Prasad, J)

Harish/-

U		T	
---	--	---	--

