

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9055 of 2021

Arising Out of PS. Case No.-28 Year-2018 Thana- MAHILA PS District- Katihar

Md.Nasim Akhtar @ Nasim Akhtar, Son of Late Rustam Ali, Resident of
Village - Harishpur, P.S.- Korha, Distt.- Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Rajendra Singh, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 02-07-2021 The matter has been taken up today for consideration
through video conferencing.

The learned counsels are appearing and making
submissions from their residence. The Court Master and
Secretary are also part of this virtual Court proceedings from
their homes, all with the aid of audio visual technology.

Heard learned Counsel for the petitioner and the
learned APP for the State.

The petitioner seeks bail in connection with Mahila
P.S. Case No.28 of 2018 registered for the offence punishable
under Sections 376, 506, 313 of the Indian Penal Code.

It is alleged that the informant was married eight
years back. Her husband died a couple of years after the
marriage, whereafter she had been living at her “*Maikey*.” In the



year 2017 it is alleged that the petitioner on the pretext of performing some work called the informant and after the work was concluded has committed rape after gagging her. The prosecution case goes on to state that the petitioner established physical relation with the informant for about a year thereafter and she has become pregnant.

The counsel for the petitioner submits that from the FIR, it is evident that the petitioner and the informant were having physical relations being consenting adults. The falsity of the FIR is apparent from the fact that the physical relation continued for more than a year. On 15.10.2019, the petitioner has submitted that he has solemnized marriage with the informant. On account of such development also he prays that he may be allowed the privilege of bail as he is a man of clean antecedents and in connection with this case, he has been in custody since 07.10.2020.

Learned APP for the State has opposed the prayer for bail.

Considering the rival submissions, this Court is inclined to allow the petitioner's prayer for bail.

Accordingly, let the petitioner, above named, be released 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 S.D.J.M., Katihar, in connection with Mahila P.S. Case No.28 of 2018, 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.

This Court would expect that the petitioner's counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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