

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11205 of 2021**

Arising Out of PS. Case No.-40 Year-2018 Thana- MAHILA P.S. District- Banka

SUSHMA DEVI Wife of Late Binod Singh Resident of Village - Gadhi,
Paunkri, P.S.- Shambhuganj, District - Banka.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bharat Lal

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

**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER**

2 21-01-2022 Due to the third wave of COVID-19 Pandemic, the
matter is being taken up by way of Virtual Court proceeding.

The matter has been listed under the heading ‘For
Orders’ under the orders of Hon’ble the Chief Justice.

Heard learned counsel for the petitioner, learned APP
for the State and learned counsel for the informant through
virtual mode.

Learned counsel for the petitioner is directed to
remove the defects, as pointed out by the Office, within a period
of four weeks after restoration of normalcy.

The petitioner is apprehending her arrest in a case
registered under Sections 376, 493/34 of the Indian Penal Code.

The prosecution allegation, in short, is that on the
pretext of marriage the son of the petitioner established physical



relation with victim.

It has been submitted on behalf of the petitioner that the petitioner has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. The petitioner has falsely been implicated in the present case. The petitioner is a lady. It has been submitted that on the pretext of marriage, son of the petitioner established physical relation with the victim. The said relationship was consensual one. He has placed reliance of the cases of the Hon'ble Supreme Court since reported in ***2019 SCC Online SC-3100 (Dr. Dhruvaram Murlidhar Sonar versus The State of Maharastra & Ors) and (2019) 9 SCC 608 (Pramod Suryabhan Pawar vs. The State of Maharashtra and Ors.)***. The informant of the present case, however, has filed a petition before the Court below in which she has retracted from her earlier statement made in the F.I.R. and has stated that she does not want to pursue the present prosecution.

On behalf of the State and the informant, it is submitted that the petitioner is named in the F.I.R.

It is necessary to indicate here that this Court while considering the prayer made in the present anticipatory bail application has taken note of the exponential rise in number of



covid cases due to outbreak of third wave of Covid-19 pandemic. Further this Court can also not lose sight of the fact that the condition of jails is not conducive and suitable to the present situation which has arisen due to the sudden rise in covid cases.

Considering the aforesaid facts and circumstances, the petitioner, above named, in the event of arrest/surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on her personal bonds to the satisfaction of learned S.D.J.M., Banka in connection with Banka Mahila P.S. Case No. 40/2018, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Once the normalcy is restored, the petitioner shall furnish bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each within a period of eight weeks to the satisfaction of the Court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

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