

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19290 of 2021

Arising Out of PS. Case No.-193 Year-2020 Thana- BAISI District- Purnia

SAHABUL @ MD. SABUL @ MD. SAHABUL Son of Md. Najam Resident
of Village-Kota Malore, Barsoi Ghat, P.S.-Balrampur, District-Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Ram Prawesh Kumar, Advocate
For the Opposite Party/s	:	Mr.A.G.
For the Informant	:	Mr. Bidhu Ranjan, Advocate

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 03-02-2022 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 his arrest in a case
registered under Sections 376, 506 and 34 of the Indian Penal Code.

The prosecution allegation, in short, is that the petitioner
established physical relation with the informant on the pretext of
marriage and later denied for the same.



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. As per the F.I.R., on the pretext of marriage, it is alleged that parties had entered into physical relationship. The said relationship was consented relationship. Hence, the said act between the parties cannot be construed as offence under Section 376 IPC. The petitioner has further placed reliance of 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.)**. It has further been submitted on behalf of the counsel for the petitioner and counsel for the informant that the matter has been resolved between the parties and the petitioner has ultimately got married with the victim and they are residing together.

On behalf of the State, 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 his personal bonds to the satisfaction of learned Chief Judicial Magistrate, Purnia in connection with Baisi P.S. Case No. 193 of 2020, 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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