

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12749 of 2022

Arising Out of PS. Case No.-49 Year-2021 Thana- DHAKA District- East Champaran

Md.Irfan Son of Md. Imtyaz Resident of Village - Gamhariya, P.s.- Dhaka,
Distt.- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mrs. Madhuri Lata, A.P.P.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 18-07-2022 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Anil Kumar, learned counsel for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with P.Tr. No. 57 of 2021, arising out of Dhaka P.S. Case No. 49 of 2021, registered for the offences punishable under Sections 376, 506, 34 of the Indian Penal Code and Sections 4/6 of POCSO Act.

As per prosecution case, it is alleged that the petitioner and informant were co-villagers and this petitioner by alluring the informant and by giving assurance of marriage established physical relationship, due to which the



victim/informant became pregnant and gave birth to a child on 20.01.2021, thereafter the petitioner and his family members refused to accept the victim and her child.

It is submitted by the learned counsel appearing on behalf of the petitioner that the petitioner is a poor person working outside the State, as unskilled labour, denied the entire allegation of any occurrence of marriage and physical relationship, however, he averred that he is ready to keep the informant as his wife. It is next submitted that now three witnesses, including the victim/informant, have been examined. PW-1 mother and PW-2 brother of the informant have shown complete ignorance of any such act and they declared hostile. PW-3 (informant) however, supported the prosecution case to the extent that on account of assurance of marriage consensual physical relationship was established and now both are ready and willing to marry with each other. Learned counsel for the petitioner has also drawn the attention of this Court towards the deposition of the victim wherein her age has been shown to be 22 years. It is lastly submitted that the petitioner is in custody since 20.02.2021 having clean antecedent.

On the other hand, learned APP for the State opposes the bail application and submits that the case instituted against



the petitioner is non-compoundable in nature and, as such, any compromise entered into by the parties would not come in the rescue of the petitioner.

Having considered the submissions made on behalf of the parties and taking into consideration the deposition of the informant and her mother as well as brother and also the period of custody of the petitioner since 20.02.2021, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-VI-cum-Special Judge, POCSO Act, Motihari in connection with P.Tr. No. 57 of 2021 arising out of Dhaka P.S. Case No. 49 of 2021, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates



without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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