

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23338 of 2021

Arising Out of PS. Case No.-1 Year-2021 Thana- KHAGARIA District- Khagaria

Amit Kumar Son Of Late Sushil Kumar Sharma R/O Village And Post-
Barmasia, P.S.- And District- Katihar.

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Rama Nand Poddar, Advocate

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

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 and learned
APP for the State through virtual mode.

The petitioner is apprehending his arrest in a case
registered under Sections 376, 323, 354B, 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.

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 been made accused due to mistake of fact. From perusal of the F.I.R., it appears that the parties entered into physical relationship on the pretext of marriage. The said relationship between the parties was a consented relationship. Subsequently, the marriage could not be performed between the parties for one reason or the other and the present prosecution has been brought upon. Learned counsel for 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 Maharashtra & Ors)*** and ***(2019) 9 SCC 608 (Pramod Suryabhan Pawar vs. The State of Maharashtra and Ors.)***.

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, Khagaria in connection with Khagaria (Chitragupta Nagar) P.S. Case No. 01 of 2021, 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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