

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25578 of 2021

Arising Out of PS. Case No.-623 Year-2020 Thana- AMARPUR District- Banka

Md. Salam Son Of Mir Md. Mokim Resident Of Village Sultanpur, Police
Station Amarpur, District Banka

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Ajay Mukherjee, Advocate.
For the Opposite Party/s :	Mr. Subhash Kumar Jha, APP.
For The Informant :	Mr. Sudhir Kumar Mishra, Advocate.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

12 02-08-2022 Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Ajay Mukherjee, learned counsel for the petitioner, Mr. Sudhir Kumar Mishra, learned counsel for the informant as well as learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Amarpur P. S. Case No. 623 of 2020 registered for the offences punishable under Section 376 of the Indian Penal Code.

As per the prosecution case, it is alleged that the



petitioner on pretext of marriage established physical relationship with the informant and on 19.09.2020 when this fact was narrated to the father of the petitioner and others all of them started abusing the informant and threatened her with dire consequences. It is further submitted that the Panchayati also took place but to no avail further the accused persons and others demanded Rs. 3,00,000/- cash and motorcycle as dowry for the aforesaid marriage from the informant.

Learned counsel appearing on behalf of the petitioner submitted that admittedly both the parties are major and from the F.I.R. it is evident that the relationship between both the parties was consensual as there had been relationship for the last three years. It is further submitted that prior to the institution of this F.I.R., the girl had filed a complaint before Mahila Police Station, however in the said complaint, she had not made any allegation of rape. It is next submitted that earlier the court after considering the entire aspect of the matter vide order dated 25.01.2022 has been pleased to enlarge the petitioner on provisional bail that both the parties will strive to do their best to resolve the matter amicably. It is lastly submitted that the victim was medically examined but there was no finding of alleged rape of the victim.



On the other hand, learned counsel for the informant vehemently opposes the bail application and submits that after granting the provisional bail to the petitioner, he had not taken any sincere effort, which resulted into non-settlement of the dispute. It is further submitted that now the victim has also been examined and she has categorically stated before the learned trial court that on the pretext of marriage she was subjected to exploitation at the hands of the petitioner.

Learned APP for the State also opposes the bail application and submits that the victim has supported the prosecution case even during the course of trial.

Having considered the submissions made on behalf of the parties and taking into account the fact that earlier the provisional bail was granted to the petitioner and both the parties have tried their best to resolve the disputes, which resulted into failure, however, there is no allegation that the petitioner during this period has either misused the bail or indulge in intimidating the witnesses or the tampering with the evidence, apart from that all the private witnesses have been examined and he had already remained in custody for more than one year before granting the provisional bail, let the provisional bail of the petitioner, above named, be confirmed on the



aforesaid terms and conditions with the further conditions,
which are as under:-

- (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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