

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15548 of 2022**

Arising Out of PS. Case No.-142 Year-2021 Thana- MAHILA P.S. District- Patna

ANKUSH KUMAR S/o Late Pawan Singh Resident of Village- Chamarhara,
P.S.- Mahnar, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Adarsh Singh, Advocate Ms. Priyanka Singh, Advocate
For the Opposite Party/s	:	Ms. Asha Devi, APP
For the Informant/s	:	Mr. Pankaj Kumar Jha, Advocate Mr. Abhijeet Gautam, Advocate

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER**

4 15-12-2022 Heard learned counsel for the petitioner, learned
counsel for the informant and learned APP for the State.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 323, 376, 506 509 and 34 of the Indian Penal Code read with Section 3 and 4 of Dowry Prohibition Act.

Learned counsel for the petitioner submits that petitioner is a person with clean antecedent and the informant alleges that in September 2019 she became friends with petitioner and thereafter the petitioner took her to his friend's house and forcefully established physical relations with her, it is next alleged that thereafter the informant also gave



assurance that he will marry her after clearing examination of Police Sub-Inspector. It is next alleged that from October 2019 till March 2021, the petitioner continuously indulged in physical relationship with the informant on the pretext of marriage and whenever the informant asked about marriage, the petitioner used to abuse her and said that he will not marry without dowry, it is next alleged that on 03.07.2021, both the parties were called by the police where petitioner executed a marriage bond but later refused to act upon the same, further on 23.11.2021 at about 5:11 PM a WhatsApp call was received by the informant wherein she was threatened.

Learned counsel for the petitioner submits that from bare perusal of the allegations as alleged in the FIR it would manifest that both the petitioner and the informant are majors/adults and thus were consenting parties, it is next submitted that it absolutely does not stand to reason that when two consenting adults come together and establish physical relationship and when the relationship sours, how it can be said that it was rape. Learned counsel for the petitioner next submits that from tenor of the allegation it appears that the informant has alleged that petitioner assured that he will marry her after clearing examination of Police Sub-Inspector



and it was only when the petitioner qualified, the present case came to be instituted. Learned counsel for the petitioner next submits that the relationship was clear right from the beginning as there was no promise of any marriage and the informant was completely aware of the consequences of her action. Learned counsel for the petitioner next relies on a judgment of the Hon'ble Supreme Court in the case of **Ansaar Mohammad v. State of Rajasthan and another** reported in **AIR 2022 SC 3478** to submit that Hon'ble Supreme Court in a similar matter was pleased to grant anticipatory bail.

Learned APP for the State and learned counsel for the informant oppose the prayer for anticipatory bail of the petitioner and submit that the petitioner on false promise of marriage entered into physical relationship with the informant, when he became a police Sub-Inspector then he ditched the informant and also that the victim has supported the case of the prosecution in her statement recorded under Section 164 Cr.P.C.

Learned counsel for the petitioner, at this stage, submits that the purpose of arrest is not to punish but to ensure that the investigation is not hampered and thus submits



that petitioner is not evading the law rather he will co-operate in the investigation and will present himself as and when required by the Investigating Officer, so that the truth comes out.

Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount to the satisfaction of the learned trial court where the case is pending/successor court in connection with Mahila P.S. Case No. 142 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

Further, in the event, if the Investigating Officer of the case files an application before the learned trial court bringing to its notice that the petitioner despite giving assurance to this Court is not co-operating in the investigation or is not presenting himself when called for, the learned trial court after giving him an opportunity of hearing shall pass order in accordance with law and shall also be entitled to cancel the bail bonds and shall take all coercive steps that he



is behind bars.

The learned trial court is directed to send a copy of
this order to the concerned Police Station.

(Satyavrat Verma, J)

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