

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16793 of 2022

Arising Out of PS. Case No.-152 Year-2021 Thana- MAHILA P.S. District- Patna

SATENDRA CHOUDHARY Son of Sri Kamal Choudhary Resident of Village - 201/BSPTCL HQ Unit , Electricity Board office, Near D.A.V. School, P.s.- Shastrinagar, Distt.- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Moni Kumari D/O Sri Umesh Prasad Singh Resident of Road No.-10, Indrapuri, P.S.- Shastrinagar, District- Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Nitesh Kumar, Advocate
For the Opposite Party/s	:	Mr. Sanjay Kumar Tiwary, APP
For the Informant/s	:	Mr. Suraj Narain Yadav, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 3 21-11-2022 Heard learned counsel for the petitioner, learned counsel for the informant and learned A.P.P. for the State.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 376 and 506 of the Indian Penal Code.

Learned counsel for the petitioner submits that petitioner is a person with clean antecedent and the informant alleges that she was doing business of credit card since January 2020 and in course of her work, she used to meet different clients and in the process, she met the petitioner, it is next alleged that on 22.12.2020, the petitioner on pretext of taking credit card took her mobile number and thereafter started talking



to her, whatsapping her, further also used to send SMS, it is next alleged that on 27.12.2020, when the informant was returning home after appearing in an examination conducted by Bihar Public Service Commission, the petitioner came on his bike and requested her to accompany him, so that he can drop her to her place but the informant was not ready, but on coaxing of the petitioner, she sat on the bike but the petitioner instead of dropping her to her home brought her to his home where he forcefully established physical relation with her. It is next alleged that when she was going to get a case instituted, the petitioner promised that he will marry her and thereafter on pretext of marriage, the sexual relation continued, it is further alleged that on 24.11.2021, the petitioner refused to marry the informant and even threatened that if she files a case against him, he will get her implicated by committing suicide.

Learned counsel for the petitioner submits that petitioner is a person with clean antecedent and from perusal of the allegation as alleged in the FIR, it would manifest that the relationship was consensual, however the informant has alleged that initially the physical relationship was established forcefully, it is next submitted that it does appear probable that had the informant been raped or the physical relation would have been



forceful, then definitely the informant would have approached the police and instituted an FIR and the informant not so easily would have believed the petitioner that he would marry her when as alleged he duped her by taking her to his home where she alleges that she was raped, the learned counsel for the petitioner next submits that the informant is a major and thus was capable of understanding the consequences of her action, it is next submitted that when two consenting adults come together and enter into physical relation and when the physical relation sours, the consequences which it entails is an FIR, as it has happened in the present case. The learned counsel for the petitioner next submits that the informant alleges that she was raped and then the relationship became consensual when the petitioner promised her to marry, the learned counsel for the petitioner next submits that the case of the petitioner is that the relationship right from the beginning was consensual or else no girl or a woman for mere asking would accompany a person on his bike for getting dropped, as it has been alleged, it is thus submitted that until and unless both petitioner and the informant were not known from before, then definitely the informant would never have accompanied the petitioner on his mere asking. The learned counsel for the petitioner next submits that



these days it has become rampant that with consent two consenting adults come together enter into physical relationship and when the relationship sours are allegation of rape is alleged.

Learned A.P.P. for the State and the learned counsel for the informant oppose the prayer for anticipatory bail of the petitioner, but are not able to meet the submission of the learned counsel for the petitioner that as to why the informant on mere asking of the petitioner accompanied him on his bike, further that if she was raped initially as alleged why she so blindly believed the petitioner that he will marry her and thus did not go to the police station to institute a case. The learned counsel for the petitioner next submits that presently the allegations are in the realm of allegation both petitioner and the informant have their own version and believing the version of the informant, if petitioner is sent to jail and ultimately if he is acquitted in trial then how his period of incarceration would be compensated – this strikes the Court.

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 each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Mahila P.S. Case No. 152 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

Shivam/-

U		T	
---	--	---	--

