

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26623 of 2021**

Arising Out of PS. Case No.-26 Year-2018 Thana- MAHILA P.S. District- Sitamarhi

DIPAK KUMAR Son of Bharosi Mahto Residence of Village- Bhandari, P.S.-
Belsand, District- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ranjeet Kumar Mishra

For the Opposite Party/s : Mr.A.G.

**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.

Learned counsel for the petitioner is directed to
remove the defect(s), as pointed out by the office, within a
period of four weeks after restoration of normalcy.

Heard learned counsel for the petitioner and the State
through virtual mode.

The petitioner is apprehending his arrest in Sitamarhi
Mahila P.S. Case No. 26 of 2018 registered under Sections 341,
323, 376, 504, 506, 120B/34 of the Indian Penal Code.

Allegedly, on the assurance of solemnization of
marriage, the petitioner established physical relationship with



the victim and later on, he refused to marry with her.

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 in the present case due to mistake of fact. On the pretext of marriage, physical relationship is alleged to have been established between the parties. The said relationship was a consensual relationship between the parties. For one reason or the other, marriage could not be solemnized between the parties. Hence, no commission of rape can be alleged. Counsel for the petitioner further relied upon the case of the Hon'ble Supreme Court reported in **2019 SCC Online SC-3100 (Dr. Dhruvaram Murlidhar Sorav-Versus-The State of Maharashtra & Ors)** and **(2019) SCC 608 (Pramod Suryabhan Pawar vs State of Maharashtra and Ors.)**.

On behalf of the State, it is submitted that the petitioner is named in the Complaint Case/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 of the case, the petitioner, above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on his personal bond to the satisfaction of learned Chief Judicial Magistrate/concerned court, Sitamarhi in connection with Sitamarhi Mahila P.S. Case No. 26 of 2018 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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