

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18017 of 2022

Arising Out of PS. Case No.-56 Year-2021 Thana- MAHILA P.S. District- Saran

Manoj Sah @ Manoj Kumar Sah @ Manoj Kumar S/o Chandrabhushan Sah
R/o Village- Khaira, P.S.- Khaira, District- Saran

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Harsh Singh, Advocate.
For the Opposite Party/s : Mr. Jagdhar Prasad, APP.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 13-07-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks regular bail in connection with
Mahila P.S. Case No. 56 of 2021 lodged under Sections 376 &
420 of the Indian Penal Code.

As per the F.I.R., the admitted case of the informant
is that she was in relationship with the petitioner for a period
of last three years. It is also admitted in the F.I.R. that the
informant and petitioner were regular visiting Mandir and
Restaurant and occasionally used to visit Hotel for the purpose
of sexual relation. The cause for filing the present case has
arisen only in May, 2021, when informant received
information from the petitioner to marry at other person/girl,
thereafter this case has been instituted.



Learned counsel for the petitioner submits that as per allegation, the cause of action has arisen for filing the present case was on 26.05.2021, F.I.R. has been typed and signed on 11.07.2021, presented before the police on 15.07.2021 and produced before the Magistrate on 19.07.2021. Such delay has not been explained. It has been further submitted that failure of promise in the year 2021, which was made in the year 2018, may not be construed to mean that the promise itself was false. He further submits that petitioner has great apprehension relating to filing of such type of case to create pressure for marriage and it is due to this reason, the present petitioner has already filed an information petition indicating the entire narrative on 03.06.2021 itself that he and his family become subject to criminal case at the hand of the present informant.

Learned counsel for the petitioner draws attention of the court towards the recent judgment of the Hon'ble Supreme Court of India in the case of **Pramod Suryabhan Pawar Vs. State of Maharashtra And Another** reported in (2019) 9 SCC 608. Paras-18, 19 and 21 of the said judgment are as follows:

“18. To summarise the legal position that emerges



from the above cases, the “consent” of a woman with respect to Section 375 must involve an active and reasoned deliberation towards the proposed act. To establish whether the “consent” was vitiated by a “misconception of fact” arising out of a promise to marry, two propositions must be established. The promise of marriage must have been a false promise, given in bad faith and with no intention of being adhered to at the time it was given. The false promise itself must be of immediate relevance, or bear a direct nexus to the woman’s decision to engage in the sexual act.

19. The allegations in the FIR indicate that in November 2009 the complainant initially refused to engage in sexual relations with the accused, but on the promise of marriage, he established sexual relations. However, the FIR includes a reference to several other allegations that are relevant for the present purpose. They are as follows:

(i) The complainant and the appellant knew each other since 1998 and were intimate since 2004;

(ii) The complainant and the appellant met regularly, travelled great distances to meet each other, resided in each other’s houses on multiple occasions, engaged in sexual intercourse regularly over a course of five years and on



multiple occasions visited the hospital jointly to check whether the complainant was pregnant; and

(iii) The appellant expressed his reservations about marrying the complainant on 31 January 2014. This led to arguments between them. Despite this, the appellant and the complainant continued to engage in sexual intercourse until March 2015.

21. The allegations in the FIR do not on their face indicate that the promise by the appellant was false, or that the complainant engaged in sexual relations on the basis of this promise. There is no allegation in the FIR that when the appellant promised to marry the complainant, it was done in bad faith or with the intention to deceive her. The appellant's failure in 2016 to fulfill his promise made in 2008 cannot be construed to mean the promise itself was false. The allegations in the FIR indicate that the complainant was aware that there existed obstacles to marrying the appellant since 2008, and that she and the appellant continued to engage in sexual relations long after their getting married had become a disputed matter. Even thereafter, the complainant travelled to visit and reside with the appellant at his postings and allowed him to spend his weekends at her residence. The allegations in the FIR belie the



case that she was deceived by the appellant's promise of marriage. Therefore, even if the facts set out in the complainant's statements are accepted in totality, no offence under Section 375 of the IPC has occurred."

Learned counsel for the petitioner submits that here in the present case, it was admitted that the informant was in relation with the petitioner since 2016. She also stated that they continued to engage in sexual relation long since 2018 onwards and their getting marriage had become a disputed matter since 2021, thereafter she had filed the present case. He further submits that petitioner is in custody since 28.01.2022, charge sheet has already been filed in this case, particularly on such allegation that she herself in the sexual relation with the petitioner since 2018 and when their marriage become disputed in the year 2021, the present case has been filed with additional allegation that all family members including 8 are now started demanding 20 lakh rupees and four wheeler, which may not be accepted. Particularly when there is an informatory petition already filed about one month prior of filing the present F.I.R. with categorical statement that with a view to create pressure the informant and their family may file criminal case against all the family members of the petitioner and this become true after filing of the present case.



Learned counsel for the State opposes the prayer for bail.

Considering the facts and circumstances as well as the submissions made above, let the petitioner above named, be granted bail on furnishing bail bonds of Rs.20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned S.D.J.M. Chapra in connection with Mahila P.S. Case No. 56 of 2021, subject to the conditions as laid down under Section 437(3) of the Cr.P.C.

Let the petitioner shall support in the trial and shall appear physically on every date before the court below and in failure to appearing on two consecutive dates, it shall be resulted into cancellation of the bail bonds.

Accordingly, the bail application stands allowed.

(Dr. Anshuman, J.)

guddu/-

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

