

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20106 of 2022

Arising Out of PS. Case No.-143 Year-2021 Thana- MAHILA P.S. District- Patna

VIKKY KUMAR SON OF ANUP PRASAD R/O VILLAGE- GANGA
BIGHA, WARD NO.-06, P.S.- CHANDI, DISTRICT- NALANDA, AT
PREENT RESIDING AT CARE HOSPITAL, NEAR CHHOTU JI HOUSE
ON RENT, P.S.- AGAMKUAN, DISTRICT- PATNA

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Arun, Advocate
For the Opposite Party/s	:	Mr. Brajendra Nath Pandey, APP
For the Informant/s	:	Mr. Shyamal Prakash, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 19-12-2022 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 of the
Indian Penal Code.

Learned counsel for the petitioner submits that
petitioner has antecedent of one case and the informant (Puja
Devi) alleges that after deserting her first husband the petitioner
assured her that he would marry her and will also take care of
her daughter, thereafter it is alleged that since 2016 to 2021 on
the promise of marriage, petitioner sexually exploited the
informant, but later denied to accept her as his wife, it is next



alleged that she came to know that petitioner is going to marry one Khusbu Kumari

Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case, it is next submitted that from bare perusal of the allegation as alleged in the FIR, it would manifest that the informant alleges that she came in contact with petitioner after deserting her husband but then the desertion has to be valid and in accordance with law, it is next submitted that informant has not deserted her husband rather she on her own volition and sweet will came in contact with the petitioner and they established physical relation, it is next submitted that petitioner had never promised that he will marry her, it is next submitted that valid marriage could not have taken place between the petitioner and the informant, as informant was married from before and in absence of divorce, even if the petitioner would have married the same would not have been a legal marriage, it is also submitted that when two consenting adults come together and establish physical relation they know and are aware of the consequences which it would entail but when the relationship sours, the allegation of rape is alleged. It is next submitted that even informant was aware that in absence of divorce, the marriage



was not possible but still she alleges that on pretext of marriage, the physical relationship was established which further *prima-facie* gives an impression that a false allegation has been 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 the learned counsel for the informant is not in a position to rebut the submission of the learned counsel for the petitioner that informant is married and is not divorced and as such could not have married the petitioner.

At this stage learned counsel for the petitioner submits that he will not evade the law rather will co-operate in the investigation and will present himself as and when required by the Investigating Officer, so that the truth comes out, it is also submitted that arrest is not meant for punishing the accused but to ensure that the investigation is not hampered and if the petitioner in the nature of allegation as alleged in the FIR and in view of the submission made hereinabove is sent to judicial custody the same would amount to travesty of justice, petitioner is willing to co-operate in the investigation.

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. 143 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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