

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22941 of 2022

Arising Out of PS. Case No.-14 Year-2022 Thana- BISFI District- Madhubani

Samse Alam @ Chunnu, Son of Late Md. Mokeem, Resident of Village-
Chhachhua, Dih Tola, P.S.- Bisfi, Distt.- Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Y.C. Verma, Sr. Advocate Mr. Jitendra Kumar Bharti, Advocate
For the Opposite Party/s	:	Mr. Rajendra Nath Jha, APP
For the Informant	:	Mr. Sanjay Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 19-10-2022 Learned counsel for the petitioner is permitted to
remove the defect(s), as pointed out by the office, within a
period of four weeks from today.

Heard Mr. Y. C. Verma, learned senior counsel for the
petitioner, duly assisted by Mr. Jitendra Kumar Bharti, Mr.
Sanjay Kuamr Jha, learned counsel for the informant and
learned APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with Bisfi P.S. Case No. 14 of 2022 registered for
the offences punishable under Sections 341, 323, 376, 420/34 of
the Indian Penal Code.

The prosecution case is based on a written report filed
by the informant alleging therein that on 10.07.2021 when her



mother was not present in the house, the petitioner entered into her house and committed rape upon her on the point of dagger. She further alleged that when the aforesaid act was protested and hulla was raised, the petitioner assured that he will solemnize marriage with her and thereupon on the pretext of solemnization of marriage, the victim was repeatedly subjected to rape. On 04.01.2022, the petitioner caught in compromising position with the victim, thereafter the mother of the victim locked the gate and a Panchayati was held wherein the petitioner again assured to solemnize the marriage, but later on refused and the petitioner and his family members also assaulted the victim and driven out from the house.

Learned senior counsel appearing on behalf of the petitioner submits that from the F.I.R., it is evident that first time occurrence took place on 10.07.2021, but no F.I.R. was registered soon thereafter and it is admitted by the informant that on the pretext of marriage, continuous physical relationship was established. He further submits that it is also alleged that on 04.01.2022 both of them were caught by the mother of the informant, but again F.I.R. was not instituted and lastly the F.I.R. was instituted on 30.01.2022 and the reason of delay has been assigned to Panchayati held by the Panchayat. Learned senior counsel further submits that in fact both the petitioner and



the victim are major and it was a consensual relationship and no force or any enticement has been made, however, when the marriage could not be finalized because of some reason, the present F.I.R. has been instituted only with a view to pressurize the petitioner, though the petitioner, having fair antecedent, is in custody since 03.03.2022 and is ready to give undertaking that he will fully cooperate in the trial.

On the other hand, Mr. Jha, learned counsel for the informant vehemently opposes the bail application and submits that specific allegation has been levelled against the petitioner that he committed rape upon the victim/informant and when the protest was made, a false assurance was given. He next submits that during the course of investigation, the statement of independent witnesses have been recorded in para. 101 and 102 of the case diary wherein they have fully supported the prosecution case, as also the factum of Panchayati.

Learned counsel for the State also opposes the bail application and submits that though the victim is a major lady, but the factum of commission of rape cannot be denied.

Regard being had to the submissions made on behalf of the parties and considering the delay in lodging of the F.I.R. and the fact that the alleged occurrence took place on 10.07.2021 and thereafter various occasions relationship has



been established, but no complaint has ever been lodged till refusal of the marriage, apart from the fair antecedent of the petitioner, let the petitioner, named above, be released on 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 Additional Chief Judicial Magistrate-I, Benipatti, Madhubani in connection with Bisfi P.S. Case No. 14 of 2022, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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