

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25890 of 2022

Arising Out of PS. Case No.-32 Year-2018 Thana- MAHILA P.S. District- Araria

Mushkil Son of Md. Azim Resident of Village - Koshkipur, P.s.- Araria
(Baigachhi O.P.), Distt.- Araria.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Ramesh Kumar Singh, Advocate
For the Opposite Party/s : Mr.Navin Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 17-08-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect(s), if any, as pointed out by the
office, be removed within four weeks.

The petitioner is in custody in connection with
Araria (Mahila) P.S.Case No. 32 of 2018 under section 376/34
of the Indian Penal Code.

The allegation is of 17.2.2018 and as per the FIR,
the married lady alleged therein that the petitioner herein
committed rape upon her on the false promise of marriage and
accepting his words, she came out with Rs. 15,000/- and
ornaments worth Rs. 25,000/- which were also taken away by
him. Later when his family members were approached, they
also refused to get the marriage solemnized.



Learned counsel for the petitioner submits that a bare perusal of the FIR shows that the alleged occurrence dates back to 17.2.2018 whereas the FIR was lodged on 16.4.2018. The informant herself is married lady and still has alleged that the petitioner had given false promise of marriage before making physical relationship. He as such submits that consensual relationship between the two adults cannot be brought in the category of rape and put the accused into custody. He submits that considering the period of custody since 1.2.2022, he deserves bail. His further submission is that he is ready to abide by the terms and conditions imposed, if enlarged on bail.

Taking into account the fact that there is a delay of two months in lodging of the FIR, the petitioner is in custody since 1.2.2022, the charge-sheet stands submitted and ultimately he has to face the trial, this Court is inclined to grant him the privilege of bail with conditions.

Let the petitioner be released on bail on furnishing bail bond of Rs. 20,000/- (Twenty thousand) with two sureties of like amount each to the satisfaction of the learned A.C.J.M.-V, Araria, in connection with Araria (Mahila) P.S. Case No. 32 of 2018 subject to the following conditions:



(i) one of the bailors should be the family members of the petitioner, who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reasons will entail his cancellation of bail by the Trial Court itself;

(iii) he shall in no way try to induce or promise or threat the witnesses or tamper with the evidence, failing which the State shall be at liberty to take steps for cancellation of his bail bonds;

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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