

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28123 of 2022

Arising Out of PS. Case No.-336 Year-2021 Thana- KANTI District- Muzaffarpur

ROHAN KUMAR @ TONY @ TONY KUMAR son of Late Manichandra Sah, resident of village = Fatehpur Nashi, Aara Mashin Chowk, Police Station-Kanti District Muzaffarpur

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mukund Mohan Jha, Advocate

For the Opposite Party/s : Mr. Veena Rani Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 06-09-2022 Heard learned counsel for the petitioner and learned counsel for the State.

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

The petitioner is in judicial custody in connection with Kanti P.S. Case No. 336 of 2021 for the offences under Sections 376 and 506 of the Indian Penal Code.

As per the FIR, the informant has alleged that she although married, was in physical relationship with the petitioner herein since 2013 and is also blessed with a five years child from him but now he has declined to solemnize the marriage.

Learned counsel for the petitioner submits that a bare



perusal of the FIR shows that the lady is married and if any physical relationship she had, it was consensual and in no case, the same can be brought within the ambit of rape. Further as per the allegation itself she wanted to marry with the petitioner and as the same could not be possible in view of the fact that she was already married, the petitioner has been implicated in this case.

Taking into account the aforesaid facts as also fact that he is in custody since 20.11.2021 (as stated in paragraph-12 of the bail application), and do not have criminal antecedent and ultimately he has to face the trial, this Court is inclined to grant him the privilege of bail.

Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate (west), Muzaffarpur in connection with Kanti P.S. Case No. 336 of 2021, subject to the following conditions.

(i) one of the bailor should be the family member 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)

Jagdish/Neha-

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