

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28538 of 2022

Arising Out of PS. Case No.-1 Year-2019 Thana- ANGARH District- Purnia

SARBAR @ MD. SARBAR S/o Mahmood R/o village- Sirsi, PS- Rauta,
District- Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Raj Kumar, Advocate
For the Opposite Party/s	:	Mr. Lakshmi Kant Sharma, A.P.P.
	:	Mr. Md. Hussain, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 15-11-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State and learned counsel for the informant.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 376, 504, 420 and 323 of the Indian Penal Code and Section 4 of POCSO Act.

The informant alleges that petitioner is brother of her sister's husband and thus used to come to her house, next alleges that one day he came and took her to a maize field and established physical relation against her wishes and thereafter on false promise of marriage continued establishing physical relation, it is next alleged that the petitioner took her to Purnea and from there to Katihar and established physical relation on the pretext that he is going to marry her, next alleges that she came back and informed about the relationship and occurrence to the family members of the accused



who abused her, thereafter, she disclosed to her sister and brother-in-law but his brother-in-law was also abused by his family members when he asked them to get the petitioner married to the informant, further, his brother-in-law then informed about the occurrence to Sarpanch but nothing happened, thus, alleges that on false promise of marriage petitioner raped her.

Learned counsel for the petitioner submits that petitioner is a person with clean antecedent. Learned counsel further submits that from bare perusal of the allegation as alleged in the FIR, it would manifest that the informant and the petitioner were known to each other as the petitioner was own brother of her Jija (brother-in-law), it is next submitted that police after investigation submitted final form finding the case to be false, it is also submitted that once an investigating agency after threadbare investigation has not found the case to be true against the petitioner then sending the petitioner to jail based on the order of cognizance taken by the learned Magistrate on the same investigation in which the petitioner was found innocent would amount to travesty of justice. Learned counsel for the petitioner next submits that in the event if the petitioner is indicted in the trial he will serve the sentence but if presently he is sent to jail and is acquitted, subsequently, in the trial how his period of incarceration would be compensated, this strikes the Court.

Learned A.P.P. for the State and the learned counsel for the informant opposed the prayer for anticipatory bail of the petitioner



but are not able to meet the submission of the learned counsel for the petitioner that police after investigation submitted final form finding the case false against the petitioner.

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. 5,000/- (Rupees Five 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 Angarh P.S. Case No. 01 of 2019 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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