

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.40192 of 2021**

Arising Out of PS. Case No.-237 Year-2021 Thana- ARA NAWADA District- Bhojpur

Uttam Kumar @ Uttam Rai, S/O Shri Rajendra Rai, R/o village- Dechana,
P.S.- Piro, District- Bhojpur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Shantanu Kumar, Advocate
For the Informant	:	Mr.Uday Kumar, Advocate
For the State	:	Ms. Sharda Kumari, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 08-02-2022 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner, learned counsel for the informant and Ms. Sharda Kumari, learned A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail in connection with Ara Nawada P.S. Case No. 237 of 2021 registered for the offences punishable under Section 366 of the Indian Penal Code . He is in custody since 09.03.2021 having no criminal antecedent as stated in paragraph '3' of the application.

Learned counsel for the petitioner submits that in this case the F.I.R. has been lodged by the Dewar of the victim lady. According to the informant his Bhabhi had gone to Laxmi



Netralaya for checkup of her eyes on 24.02.2021 at 11:30 a.m. After checking of the eyes, at the first instance, the doctor told her to wait for sometime. In the meantime, his Bhabhi had a talk with her female friend on a mobile number and thereafter she went missing. The mobile phone of her Bhabhi was coming switched off. The informant further disclosed that on the mobile phone of his Bhabhi the regular calls were coming from one mobile number and this petitioner is named as the person who was making the call. The informant, thus, raised suspicion that his Bhabhi has been abducted by the petitioner and her female friend.

Learned counsel submits that in course of investigation the victim lady was found with this petitioner. She made her statement in which the manner of occurrence, as alleged by her, has been disclosed but the same is highly improbable. It is submitted that in a broad daylight from the clinic of a doctor the Bhabhi of the informant claims that she was given to smell something by this petitioner and thereafter she became unconscious and she was taken away to Supaul. She admitted that she had seen this petitioner on the Facebook and further she disclosed that the petitioner tried to establish physical relationship with her but since the victim was not



conscious, so she cannot say whether he had made any physical relationship with her.

Learned counsel further submits that if the aforesaid statements are looked into in the light of the materials such as Whatsapp messages between the petitioner and Bhabhi of the informant, it would appear that they were very close to each other and it was the victim lady who insisted this petitioner giving threatening that if he would not come then she would commit suicide. Text of the messages have been placed on record before this court to demonstrate *prima-facie* that the victim lady was in love with this petitioner and she had in fact compelled the petitioner to come to her and it was she who had accompanied him on her own will and volition, otherwise, it cannot be possible that in the broad daylight the petitioner can take away her by threatening and by giving her something to smell so that she become unconscious. It would not have been possible even as the informant claims that he was himself present with the Bhabhi in the hospital but he does not claim to have seen this petitioner and nothing of that sort has been disclosed in the F.I.R. The version of the informant as well as the statement of the victim lady are at variance.

Further in the medical examination report, nothing adverse has been reported.

Learned counsel for the informant has opposed the



prayer for bail of the petitioner. It is submitted that the petitioner was found along with the victim lady when he was arrested and the victim lady has made statement that she was threatened that if she would not accompany the petitioner then he would kill her husband and on giving something to sniff she had become unconscious.

This Court has noticed *prima-facie* that the victim lady made a statement under Section 164 Cr.P.C. that this petitioner had come near the clinic of the doctor and then he had threatened her and given her something to sniff and after smelling the same she became unconscious and when she gained consciousness she found herself in Supaul, but the informant who claims that he was present in the hospital with her Bhabhi did not claim to have seen this petitioner, according to him, his Bhabhi got a phone call from her female friend and thereafter she left and went missing, the F.I.R. was lodged on mere suspicion, the Whatsapp chats between the petitioner and the Bhabhi of the informant are such other materials which persuade this Court to direct release of the petitioner above named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial



Magistrate, Bhojpur at Ara in connection with Ara Nawada P.S.
Case No. 237 of 2021, subject to the condition as laid down
under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify
the criminal antecedent of the petitioner and in case at any stage
it is found that the petitioner has concealed his criminal
antecedent, the court below shall take step for cancellation of
bail bond of the petitioner. However, the acceptance of bail
bonds in terms of the above-mentioned order shall not be
delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J.)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

