

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31276 of 2022

Arising Out of PS. Case No.-737 Year-2021 Thana- FORBESGANJ District- Araria

MD. UMAR ANSARI Son of Md. Mursalim Ansari Resident of Village -
Rampur South, Ward No. -09, P.S.- Forbesganj, Dist.- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Ramesh Kumar Singh, Advocate
For the Opposite Party/s :	Mr. Ram Sevak Choudhary, APP
	Mr. Madhav Jha, Advocate
	Mr. Kanchan Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 22-11-2022 Heard learned counsel for the petitioner, learned
counsel for the informant and learned A.P.P. for the State.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 376, 504, 506 and 34 of the Indian Penal Code.

Learned counsel for the petitioner submits that petitioner is a person with clean antecedent and the informant alleges that one year ago when she was alone in the house, the petitioner came and forcibly raped her, it is next alleged that when she resisted, the petitioner promised to marry her and thereafter the physical relation continued, it is further alleged that when informant requested the petitioner for marriage, he refused and thereafter she disclosed the occurrence to her



parents. It is further alleged that on 02.09.2021, informant and her parents went to petitioner's house where the family members of the petitioner misbehaved with them and abused them, it is also alleged that the petitioner's father demanded Rs. 5 lakhs by way of dowry to solemnize the marriage, thereafter a *panchayat* was held but no concrete results came.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case, it is next submitted that it absolutely does not stand to reason that if a woman is raped then how can she believe that person so easily that he will marry her and thereafter she will continue the physical relationship for years, it is next submitted that both petitioner and informant are major and were known to each other and relationship though physical was consensual. Learned counsel next submits that even the allegations as alleged in the FIR give an impression that the informant is trying to coerce the petitioner into submission for marriage as she has falsely even implicated his father alleging that he was demanding dowry of Rs. 5 lakhs. Learned counsel further submits that if what has been alleged in the FIR is true then definitely it is not a case of false promise but a breach of promise for the reason that the marriage could not take place as dowry was demanded by his



father.

Learned counsel for the petitioner further submits that both petitioner and the informant have their own version, the version of the petitioner is that the physical relationship was consensual, both of them were major and were capable of understanding the consequences of their actions in what they were indulging, it is also submitted that petitioner never misrepresented before the informant or sought her consent by fraud or under any misconception which amounts to rape in view of Section 90 of the I.P.C. rather the relationship right from the day one was clear that there was no promise of marriage. It is further submitted that informant's version is that on false promise of marriage, the petitioner continued with physical relationship and ultimately resiled and thus within the meaning of Section 90 of the I.P.C. the consent was obtained by fraud and thus the act becomes rape. Learned counsel further submits that in the event, if the petitioner is sent to custody based on an allegation which still has to be tested in a duly constituted trial and if he is acquitted then how his period of incarceration would be compensated and in the event, if petitioner is ultimately indicted in the trial, he will serve the sentence - this strikes the Court.



Learned A.P.P. for the State and learned counsel for the informant oppose the prayer for anticipatory bail of the petitioner but are not able to meet the submission of the learned counsel for the petitioner that for the present both petitioner and informant have their own version which still has to be adjudicated by a court of competent jurisdiction.

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 Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Forbesganj P.S. Case No. 737 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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