

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31772 of 2022

Arising Out of PS. Case No.-200 Year-2021 Thana- NIRMALI District- Supaul

MD IMRAN @ MD IBRAN Son of Md. Usman Resident of Village-Mazhari,
P.S.-Nirmali, District-Supaul.

... .. Petitioner/s

Versus

THE STATE OF BIHAR PATNA

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Jitendra Kumar Bharti Ms. Kumari Shubham
For the State	:	Mr. Rajendra Singh
For the informant	:	Mr. Manish Kumar no. 13

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 30-08-2022 The learned counsel for the petitioner is directed to remove all the defects pointed out by the Stamp Reporter within one month.

Heard learned counsel for the petitioner and the State.

Petitioner seeks regular bail in Nirmali P.S. Case no. 200/2021 registered for the offence punishable under section 376 of the Indian Penal Code.

As per allegation petitioner entered into the house of the informant and on the pretext of marry her, he established physical relationship with her and on the alleged night of the occurrence he established said relationship forcibly with the victim and in the meantime, parents of the victim woke up and caught the petitioner and thereafter petitioner agreed to marry



the victim but later on denied.

The main submissions advanced by learned counsel appearing Shri Jitendra Kumar Bharti for the petitioner are that petitioner has been languishing in jail since 29.12.2021, in the medical examination any sign of physical relation or any external or internal injury on the victim has not been found by the Medical Board and as per FIR, victim is major girl and according to the nature of the allegation the alleged relationship was consented by the victim. Further submission is that on behalf of the petitioner, a case of abduction had been lodged against the prosecution party owing to that case, present case was lodged.

Sri Rajendra Singh, learned APP appearing for the State and Sri Manish Kumar no. 13, learned counsel appearing for the informant have vehemently opposed the bail prayer and submitted that informant is a minor girl and if any consent given by her to establish physical relationship even then the alleged act of the petitioner comes under the purview of Section 376 I.P.C. as victim's consent is immaterial.

Heard both the sides and perused the FIR. Present case has been registered under Section 376 I.P.C and the petitioner was caught red handed from the victim's house and allegation is that he established physical relationship with the



informant on the pretext of marry her and order of the learned Court below goes to show that as per school's document of the victim her date of birth is 01.02.2007 which shows that victim was a minor girl at the time of alleged occurrence and moreover, as per the order of court below victim supported the allegation of FIR in her statement recorded under Section 164 Cr. P.C.

Considering these facts, in the opinion of this court, petitioner does not deserve privilege of bail and accordingly his prayer for bail stands rejected.

Petitioner may renew his prayer for bail after examination of victim as prosecution witness before the Trial Court, if the victim's evidence is not recorded before the Trial Court in the next Six months then the petitioner shall also have liberty to renew his bail prayer.

(Shailendra Singh, J)

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