

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38022 of 2022

Arising Out of PS. Case No.-125 Year-2022 Thana- AMAUR District- Purnia

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VIJAY KUMAR MANDAL SON OF GHOTAI MANDAL RESIDENT OF
VILLAGE- RAHIKA TOLA, NITENDRA WARD NO.5, P.S.- AMOUR,
DISTRICT- PURNEA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dr. Bidhu Ranjan, Advocate

For the Opposite Party/s : Mr. Akhileshwar Dayal, A.P.P.

: Mr. Amit Kumar Anand, Advocate

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 05-12-2022 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 323, 341, 342, 330, 363(A), 366A, 376, 504 and 34 of the Indian Penal Code and Sections 4, 6, 8 and 10 of POCSO Act.

The informant alleges that on 26-09-2021 at about 7:00 pm her minor daughter along with other children had gone out of the house and while returning petitioner on point of knife kidnapped her, thereafter, it is alleged that petitioner took her near a pond of one Jaimangal Singh and committed rape upon her and fled away leaving her at the place of occurrence, it is next alleged that when the victim did not return, the informant



along with her family members conducted a search and found her daughter in an unconscious condition near the pond and blood was oozing out from her private parts, it is further alleged that informant brought her daughter home, thereafter, panchayat was held several times in which all the accused including the petitioner told her that they have already bought the police and no one can do anything against them, it is next alleged that all the accused used to come to the house of the informant and used to misbehave with the victim and also issued threat not to lodge a case against them, it is further alleged that this petitioner had also committed rape of one Rubi Kumari, daughter of Sunil Mandal and married her, thereafter, it is alleged that Sarpanch, Mukhiya and other people forcefully took thumb print of informant and her husband and the victim on a black paper.

Learned counsel for the petitioner submits that the petitioner is a person with clean antecedent and is a young boy aged about 23 years and has been falsely implicated in the present case, it is next submitted that as far as allegation of committing rape of Rubi is alleged, the same is false and fabricated only to give a serious color to the case as no case either has been instituted by Rubi or her family members against him nor petitioner has married with Rubi. Learned counsel next



submits that the present FIR arises out of a complaint, it is further submitted that date of occurrence is 26.09.2021 and thereafter the Complaint came to be filed on 10.03.2022 i.e., after a delay of nearly six months based on which the present FIR came to be instituted on 23.04.2022. Learned counsel next submits that petitioner and the victim were in love and they had eloped and even had performed their marriage, it is next submitted that the complainant instituted the complaint with such delay so that nothing comes out in medical for examination, it is also submitted that the statement of the victim was also recorded under Section 164 Cr.P.C. wherein she has also very clearly stated that she had married the petitioner on 7.10.2021. Learned counsel next submits that since petitioner was on the run, as such, he could not have come to the aid of the victim in view of the present FIR, thus it is submitted that the petitioner was sent to remand home as even the informant and her family members were not willing to keep the victim with themselves, it is further submitted that petitioner is also ready to keep the victim with him as his wife, it is also submitted that even the Medical Board assessed the age of the victim in between 18-20 years.

Learned A.P.P. for the State and learned counsel for



the informant opposed the prayer for anticipatory bail of the petitioner.

Learned counsel for the informant submits that as per her date of birth, the victim was 17 years on the date of occurrence, as such, she was a minor.

Learned counsel for the petitioner rebuts the submission of the learned counsel for the informant and submits that the victim had reached the age of discretion where she was capable of understanding the consequences of her action and if the victim has not supported the case of the prosecution, will it not amount to travesty of justice by sending the petitioner to jail when petitioner is willing and ready to keep her and also that the doctor have assessed the victim in between 18-20 years and the medical report also does not specify any sign of rape.

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. 10,000/- (Rupees Ten 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 Amour P.S. Case



No. 125 of 2022 subject to the conditions as laid down under
Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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