

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38019 of 2022

Arising Out of PS. Case No.-838 Year-2020 Thana- PURNIA COMPLAINT CASE District-
Purnia

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SRAWAN KUMAR SAH SON OF NARAYAN SAH R/O VILLAGE-
HANSDA ROAD GULABBAG, P.S.- SADAR, DISTRICT- PURNIA

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dinesh Prasad Verma, Advocate

For the Opposite Party/s : Mr. Shahabuddin Azeem @ S. Azeem, APP

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 06-12-2022 Heard learned counsel for the petitioner, learned
counsel for the complainant and learned A.P.P. for the State.

Learned counsel for the petitioner seeks permission to
make rectification in the pleadings made at Para-1 of the
anticipatory bail application.

Permission is accorded.

The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 323, 376,
504 and 506 of the Indian Penal Code.

Learned counsel for the petitioner submits that
petitioner is a person with clean antecedent and the complainant
alleges that on 09.03.2015 at about 10:00 AM, the petitioner
came to her house on the pretext of looking for her husband, on



which he was informed that he is not at home and had gone to the market and thereafter he committed rape, it is next alleged that when complainant tried to raise an alarm petitioner took out his pistol and threatened to kill the complainant's husband and children and also assured that he will maintain if a child is born, hence on account of fear case was not instituted, it is also alleged that petitioner used to give medicine for aborting the child after establishing physical relation, it is next alleged that on 15.07.2020 at about 11:00 AM, petitioner again came to her house and on gun point forcefully committed rape and on protest threatened to kill all, when the complainant disclosed the occurrence to her husband. It is also alleged that the complainant has a child out of the physical relation with the petitioner and there is a fear that the child may be killed so that he does not demand any right in the property of the petitioner.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case, it is next submitted that no such occurrence as alleged ever took place, it is next submitted that the allegation of a child being born out of the physical relationship between the petitioner and the complainant is a figment of imagination of the complainant, it is also submitted that if what has been alleged in the



complaint is true then the definitely the relationship was consensual and when it soured a false case of rape came to be instituted, it is next submitted that it absolutely does not stand to reason that as to why the complainant remained quiet for so long, it is also asserted and submitted that petitioner never had any physical relation with the complainant and as such questions of child being born does not arise, it is further submitted that if what has been alleged is true then definitely the complainant would have instituted an FIR so that the police could have investigated but filing of a complaint also does not inspire confidence as there is no investigation of the offence rather based on oral evidence cognizance is taken and the Court at the stage of taking cognizance does not have any other material before it for arriving at a considered conclusion, it is further submitted that the petitioner will co-operate in the trial and will present himself as and when required by the learned trial court.

Learned A.P.P. for the State opposes the prayer for anticipatory bail of 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. 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 Complaint Case No. 838 of 2020 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

Further, in the event, if the learned trial court comes to a conclusion that petitioner after framing of charge is trying to delay the trial, then the learned trial court shall be entitled to pass orders in accordance with law and will also have liberty to cancel his bail bonds.

(Satyavrat Verma, J)

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