

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49837 of 2021

Arising Out of PS. Case No.-44 Year-2020 Thana- MAHILA P.S. District- Araria

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Athar @ Athar Hussain, Son of Ahmad, Resident of Village- Belwa, Tola-
Jhawwari, Ward no.11, P.S.- Araria, Distt.- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Ziaul Quamar, Advocate

For the Opposite Party/s : Mrs. Dr. Indihar Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

6 08-08-2022 Learned counsel for the petitioner is permitted to

remove the defect(s), as pointed out by the office, within a

period of four weeks from today.

Heard Mr. Ziaul Quamar, learned counsel appearing
on behalf of the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with Araria (Mahila) P.S. Case No. 44 of 2020
registered for the offences punishable under Sections 376, 341,
323, 506, 379, 427/34 of the Indian Penal Code.

As per the prosecution case, it is alleged that the
petitioner on the pretext of marriage has established physical
relationship with the informant and when the victim insisted for
marriage, he refused to do so. It is further alleged that on
23.05.2020 while the informant was going to field, the petitioner



took her to a maize field and committed rape upon her.

Learned counsel appearing on behalf of the petitioner submits that from the F.I.R. it is evident that both the parties had love affairs and as their marriage was to be solemnized, relationship was developed between the parties, however, on account of some misconception, the F.I.R. has been instituted. It is further submitted that from the F.I.R. it is also evident that with regard to an occurrence, which took place on 25.03.2020, the F.I.R. was instituted on 02.06.2020. It is next submitted that during the trial, the informant has been examined and she has categorically stated that the petitioner has not committed any such offence before the marriage and only due to delay in solemnization of marriage on the part of the petitioner, the F.I.R. has been instituted. It is next submitted that now both the parties have solemnized the marriage, however this petitioner is in custody since 13.06.2021 having man of fair antecedent.

On the other hand, learned APP for the State opposes the bail application and submits that the informant has been gain over by the petitioner.

Having regard to the submissions made on behalf of the parties and considering the deposition of the informant as well as other witnesses and also the fact that marriage of the



informant has already been solemnized with the petitioner, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Araria in connection with Araria (Mahila) P.S. Case No. 44 of 2020 subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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