

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40844 of 2022

Arising Out of PS. Case No.-61 Year-2021 Thana- MAHILA PS District- East Champaran

Amit Kumar Singh S/o Sri Kamla Kishore Singh R/o Village- Kotwa, P.S.-
Kotwa, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Prateek Tandon, Advocate
For the State	:	Mr.Madhura Nand Jha, APP
For the Informant/s	:	Mr. Ambuj Kumar Chandra, Advocate

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 30-11-2022 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 as well as learned counsel for the informant and learned APP for the State.

Petitioner seeks regular bail in connection with Motihari Mahila P.S. Case No. 61 of 2021 registered for the offences punishable under Sections 493, 376, 420, 498(A), 341,323, and 34 of the Indian Penal Code.

As per the prosecution, the informant alleged that she was married to Chandan Sah thereafter the petitioner developed illicit physical relation with her and later married this informant in the year 2021 and somehow Chandan Sah came to know about the said alleged illicit relation and filed for divorce then

the family of this petitioner took him away, threatened and abused the informant.

The main submissions advanced by learned counsel Mr.Prateek Tandon, appearing for the petitioner are that the informant is admittedly a 35 years old woman married to Chandan Sah having three children from her husband and the petitioner is 24 years old person and the allegation of establishing sexual relationship for a long period without the consent of the informant is not believable and if the same has happened then from the facts of the FIR the said relationship can be deemed to be consented and accordingly the alleged offence of Section 376 of the Indian Penal Code is not made out against the petitioner and the petitioner has been languishing in jail since 21.04.2022.

Learned APP Mr.Madhura Nand Jha, appearing for the State as well as learned counsel Mr. Ambuj Kumar Chandra, appearing for the informant have vehemently opposed the bail prayer and submitted that the petitioner established sexual relationship with the informant on the pretext to sanction loan to the informant's husband and finally he solemnized marriage with the informant in the court premises in the year 2021 and also started leading a conjugal relationship with the informant

but finally the petitioner and his family members ousted the informant from the house.

Heard both the sides and perused the FIR. Admittedly, informant is much older than the petitioner and she is a 35 years old woman having three children from her husband Chandan Sah with whom she was legally married and admittedly she was in relationship with this petitioner since 2018 and the instant case was lodged in the year 2021 and there is no material to show that she made any resistance against the alleged relationship between 2018 and 2021 and the said circumstances go against the allegation made by the informant. Considering all these facts as well as petitioner's custody period, in the opinion of this Court the petitioner deserves to a lenient approach of this Court. Accordingly, let the petitioner be enlarged on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Court concerned in connection with Motihari Mahila P.S. Case No. 61 of 2021.

(Shailendra Singh, J.)

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