

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41372 of 2022

Arising Out of PS. Case No.-179 Year-2021 Thana- HABIBPUR District- Bhagalpur

Md. Sunny Son of Md. Hashim Resident of Mohalla- Mahabalichak, Police
Station- Habibpur, District – Bhagalpur.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Praveen Kumar, Advocate

For the Opposite Party/s : Mr. A.G.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 15-11-2022 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 and learned APP
for the State.

Petitioner seeks regular bail in connection with POCSO
Case No. 113 of 2021 arising out of Habibpur P.S. Case No. 179
of 2021 registered for the offences punishable under Sections
376, 379, 384, 34, 504, 509 of the Indian Penal Code and under
Section 4 of POCSO Act and under Section 4 of Dowry
Prohibition Act.

As per the prosecution, the informant has alleged that

this petitioner has established physical relationship with the

victim on the pretext of marrying her and he has been doing this for the last Five years. The petitioner and his family members demanded One lakh rupees and a Motorcycle for getting the petitioner and the victim married. Further it is alleged that the petitioner had taken the victim to hotel and established physical relation with her several times and also the petitioner prepared and provided the victim a forged document of marriage and seized her mobile phone containing their recorded conversations over call and when the matter was taken to the Panchayat the victim girl was imputed as to have a bad character and was directed to pay Rs. 1100/- as fine otherwise she will be thrown out of the village along with her mother.

The main submissions advanced by learned counsel Mr. Praveen Kumar, appearing for the petitioner are that the alleged offence of rape under Section 376 of the Indian Penal Code is not made out against the petitioner and the offence of cheating punishable under Section 417 of the Indian Penal Code may attract in this case if the allegation made in the FIR is deemed to be true, however the petitioner denies all the allegations made in the FIR, in fact the informant's family wanted to marry the informant with the petitioner and owing to that reason the present case was fabricated and in the statement

recorded by the victim, she revealed her age as 18 years hence no offence under POCSO Act is made out in this case. Further submission is that the petitioner has clean antecedent and has been languishing in jail since 16.11.2021.

Learned APP appearing for the State has opposed the prayer for bail.

Heard both the sides and perused the FIR and the order impugned. In the FIR the victim disclosed her age as 18 years and from the facts of the FIR, it appears that she was a consented party to the alleged sexual relationship though she alleged that the petitioner established the said relationship on the pretext to marry her, however, the informant continued to establish the said relationship with the petitioner for a long period of time without making any resistance and also visited hotels with the petitioner.

Considering these facts as well as petitioner's custody period and the stage of his case, in the opinion of this Court the petitioner deserves to a lenient approach of this Court, let the petitioner be released 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 Exclusive Spl. Judge POCSO Act cum Addl. Sessions Judge VI, Bhagalpur in connection with

POCSO Case No. 113 of 2021 arising out of Habibpur P.S. Case
No. 179 of 2021.

(Shailendra Singh, J.)

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