

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44602 of 2022

Arising Out of PS. Case No.-22 Year-2022 Thana- MAHILA P.S. District- Rohtas

SATISH DUBEY @ SATISH CHANDRA Son of Krishna Murari Dubey
Resident of village- Pankri, P.O- Kishunpur, P.S- Patan, Sirma, Palamu,
Jharkhand- 822123, UIADI Adhar No. 425532326410 At present posted as
Head Constable (GD) Identity Card, Registration No.- 070342175, Card No.
077488 in the Department of Indo Tibetan Border Police Force, Ministry of
Home Affairs, Government of India

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Bishwajeet Kumar, Advocate
For the Opposite Party/s	:	Mr. Uday Chand Prasad, APP
For the Informant	:	Mr. Ashwani Kumar Tiwary, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 15-12-2022 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 376,
120(B), 506 and 34 of the Indian Penal Code.

Learned counsel for the petitioner submits that
petitioner is a person with clean antecedent and the informant
alleges that petitioner was working as Frequency Modulator at
Ambagarh Chowki P.S. and they developed friendship through
Facebook, it is next alleged that the petitioner convinced her
that being in police force he will provide service to her and her
husband, thereafter on 11.03.2022 petitioner called her to



Varanasi where they stayed in a hotel and petitioner raped her several times and threatened that he has made a video and will make it viral.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case, it is next submitted that no doubt petitioner and the informant were known to each other through social media but then the allegation of rape is false and the FIR has been instituted only with a view to coerce the petitioner into submission so that he gets the informant or her husband a government job, it is next submitted that it absolutely does not stand to reason that how the informant could have been convinced by the petitioner who is a Constable that he will get her or her husband a government job.

Learned counsel for the petitioner submits that though the informant has alleged that she was raped in a hotel at Varanasi but then the informant in the FIR does not disclose the name of the hotel where the occurrence was committed which creates doubt with regard to the veracity of the allegations as alleged, it is next submitted that rape is a heinous and a barbaric offence and it is difficult to believe that if such an occurrence would have taken place without the consent of the informant in



a hotel at Varanasi where she stayed the whole night, it is just not possible for the informant not to disclose the name of the hotel in the FIR so that during the course of investigation the allegation could have been verified by the police, it is further submitted that a vague allegation has been alleged that she was raped in Varanasi in a hotel without disclosing the name of the hotel, it is next submitted that it absolutely does not stand to reason that as to why the informant leaving her husband behind went to Varanasi on mere call of the petitioner, this amply demonstrates that they were known to each other, were friends and the informant was knowing that being a married woman and without informing her husband she had left which morally also was not correct, it is thus submitted that no doubt the petitioner and the informant were known to each other but then the allegation of rape as alleged in the FIR creates doubt with regard to the veracity of the allegations in the nature of the submissions, as aforesaid.

Learned counsel for the petitioner further submits that it absolutely does not stand to reason that had rape been committed upon the informant then the same definitely would not have been videographed because then the occurrence must have been recorded by a hidden camera in which even the



petitioner would have surfaced, it is thus submitted that only to make the case more serious, the allegation of occurrence being videographed has been alleged, learned counsel further submits that even presuming what has been alleged is true, without admitting for the purposes of anticipatory bail, then from the allegation it can be easily culled out that it was the informant who was behind the petitioner seeking a government job through backdoor, which also is an illegality.

Learned A.P.P. for the State and learned counsel for the informant oppose the prayer for anticipatory bail of the petitioner but are not able to meet the submissions of the learned counsel for the petitioner that the victim has not disclosed the name of the hotel in which the occurrence is said to have been committed at Varanasi and that had the occurrence been videographed then definitely the petitioner would also have surfaced in the video and no prudent person would create evidence against himself, further that as to why the informant leaving her husband behind went to Varanasi to meet the petitioner.

Learned counsel for the petitioner submits that the purpose of arrest is not to punish the accused, but to ensure that the investigation is not hampered, it is next submitted that the



petitioner will co-operate in the investigation and will appear before the Investigating Officer when required, so that the truth comes out.

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 Court below 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 court below where the case is pending/successor court in connection with Mahila Sasaram P.S. Case No. 22 of 2022 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

Further, in the event, if the Investigating Officer of the case files an application before the learned Trial Court bringing to its notice that the petitioner despite giving assurance to this Court is not co-operating in the investigation or is not appearing before him when required, the learned Trial Court after giving an opportunity of hearing to the petitioner shall pass order in accordance with law and shall also be entitled to cancel his bail bonds.

The learned trial court is directed to send a copy of



this order to the concerned Police Station.

(Satyavrat Verma, J)

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