

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59255 of 2021**

Arising Out of PS. Case No.-60 Year-2020 Thana- MAHILA PS District- Darbhanga

Nadim Ashraf, Son of Md. Shamse Alam Resident of Village- MaheshThan,
P.S.- Aurai, District – Muzaffarpur. Petitioner/s

Versus

1. The State of Bihar
2. Payari Bibi D/o Alaul Rahman R/o Village - Ashraha, P.A. - Kewati, District - Darbhanga.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Md. Shahnawaz Ali, Advocate
For the Informant	:	Mr. Baidya Nath Prasad, Advocate
For the Opposite Party/s	:	Mr. Choubey Jawahar, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 27-09-2022 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. Md. Shahnawaz Ali, learned counsel for the petitioner and Mr. Baidya Nath Prasad, learned counsel for the informant, as well as, learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Mahila P.S. Case No. 60 of 2020, registered for the offences punishable under Section 376/34 of the Indian Penal Code and Sections 67 and 67(A) of the Information and Technology Act.

As per the prosecution case, it is alleged that on the



assurance of marriage, the petitioner has established physical relation with the victim and later on denied the same, which resulted into lodging of a complaint case bearing C.A. No. 586 of 2020, which was later on sent to the concerned police station under Section 156(3) of the Cr.P.C., and the present FIR has been instituted.

Learned counsel appearing on behalf of the petitioner submits that from the complaint case, which is the basis of the FIR, it would be evident that both the petitioner as well as the victim are major and their relationship was consensual as at no point of time any force or allurement was given. He further submits that she, herself, stated that on the request made by the petitioner, she used to go different places where physical relationship was made. But at no point of time, any complaint or any information has given to anyone, prior to the filing of the complaint case. He next submits that in fact after settlement of marriage some dispute arisen, which resulted into filing of the complaint case, however, after interference of the well-wishers and the family members, the matter has been compromised and both the petitioner as well as victim are ready to solemnize the marriage with each other and in this regard, a petition of compromise has been brought on record, by way of Annexure 4.



Learned counsel appearing on behalf of the petitioner while arguing this matter also relied upon the judgment of the Hon'ble Supreme Court in case of ***Dr. Dhruvaram Murlidhar Sonar versus The State of Maharashtra & Ors. reported in 2019 SCC Online SC-3100.***

On the other hand, learned counsel for the informant, suo motu, appears, however, he does not confront the submissions made on behalf of the learned counsel for the petitioner and supported compromise petition that now the petitioner is ready to get marry with the victim, if he would be released from the custody.

Learned APP for the State also opposes the bail application and submits that specific allegation has been levelled against the petitioner that on the pretext of marriage, he exploited the girl and the victim also supported the prosecution case in her statement recorded under Section 164 of the Cr.P.C.

Regard being had to the submissions made on behalf of the parties and considering the fact that the petitioner and the victim are major and, prima facie, it appears that there was consensual relationship between the parties and presently the compromise petition has been filed on behalf of both the parties that they have settled the matter and the petitioner is ready to



solemnize marriage with the victim, as was settled earlier, after release from the custody, apart from the period of incarceration of the petitioner since 07/06/2021, having fair antecedent, 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 Chief Judicial Magistrate, Darbhanga in connection with Mahila P.S. Case No. 60 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.

It is needless to say that this order has been passed on the basis of the undertaking given on behalf of the learned counsel for the petitioner that he would solemnize marriage with



the victim, whenever, he would be released from judicial custody.

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(Harish Kumar, J)

