

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.8162 of 2021**

Arising Out of PS. Case No.-96 Year-2019 Thana- MAHILA P.S. District- Araria

Qadir Son Of Md. Rakib R/O Village- Mansiya Ward No.4, P.S.- Mahalgaon,
District- Araria.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

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

For the Opposite Party/s : Ms. Gulnar Begum, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 12-01-2022 Learned counsel for the petitioner undertakes to remove all the defects pointed out by the Stamp Reporter within four weeks after start of normal functioning of the Court.

Heard Mr. Alok Kumar Alok, learned counsel representing the petitioner and Ms. Gulnar Begum, learned APP for the State.

Learned APP has received the case diary and assisted this Court with the same.

The petitioner in the present case is seeking pre-arrest bail in connection with Araria (Mahila) P.S. Case No. 96 of 2019 registered for the offences punishable under Sections 376, 341, 323, 504, 506/34 of the Indian Penal Code.

Learned counsel for the petitioner submits that the present case has been instituted by the married daughter of one Jumman Ali alleging that the petitioner was in love affair with her but his parents did not want to allow this relationship to develop and culminate in a



marriage between the parties. It is alleged that the petitioner was sent to Saudi Arab by his family members whereafter the informant was married to another person about 3 years ago and she gave birth to a male child from the said marriage.

It is further alleged that about 3 months back when the husband of the informant was in Delhi, this petitioner returned from Saudi Arab, went to the sasural of the informant and then on alluring her that he will marry her and that he is a very rich person and will take her to Saudi Arab, established physical relationship with her as a result whereof the informant became pregnant but thereafter the petitioner did not enter into the court marriage.

The informant further alleged that when this fact came to the notice of her husband, her husband left her and thereafter a panchayati took place which was presided over by the Sarpanch of the panchayat and the allegations against the informant were established in the said panchayati, thereafter, her husband left her and took away her son. The informant alleged that when the family members of the petitioner were asked to make the petitioner appear before the panchayat, they refused to do so and rather indulged in abusing the informant and assaulted her. The informant alleged that this petitioner had given her poison asking her to administer the same to her husband and the child and the said medicine is in her hand.

Learned counsel for the petitioner has vehemently submitted before this Court that it is a case of false implication which



would be evident from the materials collected by the Investigating Officer and those are present in the case diary. The submission is that first of all the informant is major aged about 22 years and he is married daughter of one Jumman Ali who is still residing in her sasural as the evidence has come. Said Jumman Ali and the father of this petitioner, namely, Rakib are sworn enemies and they are fighting several litigations against each other. In paragraph '31' of the case diary, the I.O. has mentioned the materials which have come in course of investigation showing previous enmity between the parties and the court cases pending between the two.

Learned counsel has given much emphasis on the submission that the allegations further falsify from the fact that the informant did not offer herself for medical examination and in this case no medical examination has been done, therefore, her allegation that she had become pregnant out of the relationship established by this petitioner has no basis and the falsity reads large on taking notice of the conduct of the informant.

It is further submitted that this FIR has been lodged on 17.08.2019 and only 2 days back on 15.08.2019 one case was lodged between the parties, in course of panchayati the panchas have found the allegations false against the petitioner and this fact has also come in paragraph '151' and '152' of the case diary.

Ms. Gulnar Begum, learned APP for the State has after going through the case diary submitted before this Court that in this



case there is no independent witness, the informant did not go through the medical examination, she is major and on perusal of paragraph '31' of the case diary, it appears that the parties are fighting with each other and even two days back to this occurrence, father of this petitioner had apprehended that his family members may be falsely implicated. He had given a petition to this effect in the Court.

Learned APP has further read out the statements in paragraphs '151' and '152' of the case diary showing that the panch and Sarpanch both have stated that the allegations against the petitioner are false and baseless, the daughter of Jumman Ali is in her sasural.

Having regard to the overwhelming materials in paragraph '3', '151' and '152' of the case diary showing prima-facie that it may be a case of false implication of the petitioner because of on-going litigation between the parties, there is no medical examination of the informant, the informant as per her own version was married three years ago and she has a son, still she alleges to have been allured in the name of marriage, there is no independent evidence against the petitioner and the allegations against him have not been substantiated in course of investigation rather Panch and Sarpanch both have stated that the allegations are false as have been placed before this Court, this Court directs that the petitioner above named in the event of his arrest or surrender within six weeks from today be released on bail



on furnishing of bail bond of Rs.25,000/- (Rupees Twenty Five Thousand/-) with two sureties of the like amount each to the satisfaction of learned S.D.J.M., Araria in connection with Araria (Mahila) P.S. Case No. 96 of 2019, subject to the conditions as laid down under Section 438(2) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

The application stands allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

