

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64224 of 2021

Arising Out of PS. Case No.-17 Year-2021 Thana- AMAS District- Gaya

Ritesh Kumar Son of Mahendra Prajapat Resident of Village - Bahedia, P.S.-
Paraiya and District - Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manish Kumar No2, Advocate
For the Opposite Party/s : Mr. Aslam Ansari, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 05-07-2022 This application has been listed under the heading
“For Orders”.

Registry has pointed out several defects in the present
application.

Mr. Manish Kumar, learned counsel for the petitioner
submitted that the defects are mainly because only e-filing of
the applications are permitted by the Court. He submitted that
the defects can be removed only after filing of hard copy is
permitted. He undertook that even if the application is heard and
disposed of on merit, in due course of time, when the Court
would permit filing of hard copy, the defects pointed out by the
registry would be removed.

In view of the submissions made by the learned
counsel for the petitioner, with consent of the parties, the



application has been taken up for hearing on merit.

In the present application preferred under Section 438 of the Code of Criminal Procedure, the petitioner has prayed for grant of pre-arrest bail in connection with Amas P.S. Case No.17 of 2021 registered for the offences punishable under Sections 323, 448, 452, 376, 358, 504, 506 read with 34 of the Indian Penal Code.

Initially, a complaint under Section 200 of the Code of Criminal Procedure was filed by the informant which was referred to the police for investigation under Section 156(3) of the Code of Criminal Procedure pursuant to which the first information report was registered. In the first information report, the informant alleges that the petitioner is brother of her cousin brother-in-law who got her number through a relative and started talking to her. They fell in love with each other. The petitioner wanted to marry her. On 14.06.2020, the petitioner came at her house in absence of her parents and established physical relationship on the pretext of marriage. An information regarding the same was given to the parents of both sides and then the marriage was fixed. It was scheduled to take place after the lock-down. Thereafter, the petitioner came thrice to her house and established physical relationship with her. After lock-



down, a demand of Rs.5,00,000/- as dowry was made and when her father showed his incapability, they abused and assaulted him and refused to marry her. The informant alleged that the petitioner backed out from his promise to marry her after establishing physical relationship on several occasions and now he is likely to marry another girl.

Learned counsel for the petitioner submitted that as per the prosecution case the petitioner established physical relationship with the informant for the first time on 14.06.2020 in the house of the informant. Thereafter, he established physical relationship under the knowledge of the parents of the informant but the complaint was registered on 16.12.2020 and the first information report was lodged on 13.01.2021. He contended that there is an inordinate and unexplained delay in lodging the complaint. According to him, the complaint was lodged in order to compel the petitioner to marry with the informant which was not acceptable to him. He contended that even if the prosecution case is believed to be true, it is a case of establishment of voluntarily establishing the physical relationship by the informant with the petitioner. Since the petitioner and the informant are adult, even if the prosecution case is believed to be true ingredients of the offence under



Section 376 of the Indian Penal Code would not be attracted.

On the other hand, learned Additional Public Prosecutor for the State opposed the prayer for bail. He submitted that the allegations made in the instant case would definitely constitute the offence punishable under Section 376 of the Indian Penal Code as the petitioner had established physical relationship on the pretext of marriage and subsequently refused to marry the informant.

Be that as it may, considering the totality of the circumstances, as enumerated in the first information report, the petitioner is directed to be released on bail in the event of his arrest or surrender before the court below on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate-1st Class, Sherghati, Gaya in Amas P.S. Case No.17 of 2021 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Ashwani Kumar Singh, J)

kanchan/-

U		T	
---	--	---	--

