

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69759 of 2021

Arising Out of PS. Case No.-65 Year-2021 Thana- MAHILA P.S. District- Rohtas

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AMIT KUMAR @ PINTU DUBEY S/o- Jaleshwar Dubey R/o Mohalla-
Lashkariganj, P.S.- Sasaram (T), District- Rohtas.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Ms.Nivedita Nirvikar, Sr. Advocate
	:	Mr.Deovind Kumar Singh, Advocate
For the Opposite Party/s	:	Mr.Anil Kumar, APP
For the Informant	:	Mr.Radhe Shyam, Advocate

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 26-07-2022 Heard learned senior 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 341, 323,
313, 376, 506 and 34 of the Indian Penal Code.

Learned senior counsel for the petitioner submits that
the petitioner is a practicing advocate at Sasaram District Court
and is a person with clean antecedent and the informant alleges
that she started practicing as an advocate at Sasaram Civil Court
and in the year 2018, she started her practice as junior under the
petitioner and the petitioner developed physical relation with the
informant after giving assurance of marriage and when she



pressurized him for marriage, then he used to extend the date. The informant twice became pregnant but her pregnancy was aborted by the petitioner by giving medicine and the petitioner assured that he will marry her after constructing his new house at Mohalla Chawartakiya, Ward No. 13, Sasaram. It is further alleged that the petitioner portrayed as if he was unmarried and on that pretext he developed physical relation assuring that he will marry her and when informant came to know that petitioner is already married then on 29.07.2021, she went to the house of the petitioner after completing her court work, thereafter it is alleged that the petitioner along with his son and wife closed her in a room and brutally assaulted her with an intention to commit her murder but she somehow managed to escape. The petitioner even sent unknown accused persons at her residence who threatened her for not lodging an F.I.R. and thereafter on several occasions she was threatened and ultimately when she could not take the trauma, the present F.I.R. came to be instituted.

Learned senior counsel for the petitioner, at the outset, submits that from perusal of the allegation it would manifest that the informant on 29.07.2021 went to the house of the petitioner after coming to know that he is a married man and thereafter she was assaulted at his place but the present F.I.R.



came to be instituted on 06.09.2021 i.e., after a delay of 37 days, learned senior counsel thus submits that this also is one of the grounds for considering the anticipatory bail of the petitioner as there is no plausible explanation for the inordinate delay in instituting the F.I.R. It is next submitted that even presuming what has been alleged in the F.I.R. is true without admitting for the purposes of anticipatory bail then the allegation is that the informant was a junior advocate who started her practice with the petitioner and thereafter the petitioner entered into a sexual relationship on the pretext of marriage, it is thus submitted that it absolutely does not stand to reason that how a young advocate aged about 25-26 years who had just started practice would indulge in such an act merely on the assurance that the petitioner would marry her. It is further submitted that it appears that the occurrence might have taken place but then the relationship was purely consensual, it is next submitted that when two consenting adults come together and indulge in physical relationship, the same by no stretch of imagination can be termed as rape.

Learned senior counsel for the petitioner submits that it absolutely defies all logic wisdom and reasonable human behaviour that the informant despite working with the petitioner



for the last three years was not knowing that the petitioner is a married man and has a child even. Learned senior counsel next submits that though in the F.I.R. it is alleged that twice she was aborted by medicines provided by the petitioner but then the F.I.R. is completely silent with regard to the name of the medicine which was administered to her for carrying out abortion, it is also submitted that once a woman becomes pregnant then merely by having pills she may lose the child but then may have to go to a doctor for complete termination of the pregnancy, learned senior counsel thus submits that it absolutely does not stand to reason that how the pregnancy got aborted just by taking pills. It is the further submission of the learned senior counsel for the petitioner that the fact is that she was never pregnant nor any abortion took place as such only to give a serious colour to the case vague and cryptic allegations have been levelled in the F.I.R., it is further submitted that the girl has even performed her marriage. Learned senior counsel at the cost of repetition submits that relationship was purely consensual and when their relationship soured, the present false case came to be instituted.

Learned senior counsel for the petitioner further submits that even from perusal of the case diary it would



manifest that not a single witness during the course of investigation has supported the prosecution case i.e., none of the witnesses have even remotely suggested that this petitioner was having an affair with the informant, it is next submitted that the informant was staying on rent and the police took the statement of the landlady of the informant which is recorded at paragraph '8' of the case diary and from perusal of the same it would manifest that even the landlady does not even remotely suggest that the petitioner ever used to come to her house when the informant in the F.I.R. alleged that the petitioner used to come to her house to meet her.

The learned senior counsel for the petitioner next submits that from perusal of the tenor of the allegation in the penultimate paragraph of the F.I.R. it would manifest that the informant alleges that on account of continuous threat being given by the petitioner, she filed the present case, which amply demonstrates that the informant had no intention to institute an F.I.R., but for the threat, despite being aware of the fact that the petitioner was married, it is submitted that petitioner never gave any threat or else the F.I.R. would have disclosed at least the date and place where the threat was given, it is thus submitted that the informant by way of afterthought instituted the case



when the relationship soured.

The learned senior counsel next submits that at the stage of bail it is difficult to ascertain whether an offence as alleged was committed or not, hence for considering the anticipatory bail application the nature of allegation in the circumstances is to be viewed with circumspection, and the circumstances in which the offence is alleged does not inspire confidence in view of submissions aforesaid that the offence was committed on the pretext of marriage.

Learned A.P.P. for the State and the learned counsel for the informant oppose the prayer for anticipatory bail of the petitioner but are not able to rebut the submission made by the learned senior counsel for the petitioner that during the course of investigation no independent witnesses have supported the prosecution case nor are able to rebut the submission that the informant despite being an educated lady has not disclosed the name of the medicine which was administered to her for getting her pregnancy terminated. Learned counsel for the informant submits that informant in the F.I.R. has alleged that on pretext of marriage the petitioner established physical relation and thus the same amounted to an offence under Section 376 of the I.P.C. but the learned counsel for the informant is not in a position to rebut



the further submission of the learned senior counsel for the petitioner that for the last three years despite working with the petitioner she was not aware that the petitioner was a married man. However, the learned counsel for the informant very fairly submitted that informant has now married.

Considering the submissions made by the learned senior counsel for the petitioner and in the nature of allegations as alleged in the F.I.R., 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 Dehri Mahila P.S. Case No. 65 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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