

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59740 of 2022

Arising Out of PS. Case No.-365 Year-2022 Thana- BEGUSARAI TOWN District- Begusarai

Rakesh Kumar, Son Of Karu Sah, R/O Village- Khamhar, Sharma Tola, Ward
No. 6, P.S.- Mufassil, District- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Yogesh Kumar, Advocate
For the State	:	Mr.Vinod Shanker Modi, APP
For the Informant	:	Jai Prakash Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 23-12-2022 Heard learned counsel for the petitioner, learned
counsel for the informant and learned APP for the State.

The petitioner in the present case is seeking regular
bail in connection with Begusarai Town P.S. Case No.365/2022
registered for the offences punishable under Section 376 of the
Indian Penal Code. He is in custody since 22.06.2022. The
petitioner has got no criminal antecedent.

Learned counsel for the petitioner submits that this
petitioner is the maternal brother-in-law (Mamera Devar) of the
informant. The informant is married to the cousin brother of the
petitioner in the year 2004 and she has five children out of the
said marriage. She has filed a complaint against her husband
and is not maintaining a cordial relationship with him.



Learned counsel submits that as per the First Information Report of the informant she was called by this petitioner in his village where the petitioner allured her in the name of marrying her and thereafter established physical relationship with her on 17.06.2022 in his village. Further allegation is that the petitioner took her to a hotel in the Begusarai where he committed rape with her from 18.06.2022 to 20.06.2022.

Learned counsel submits that the FIR has been lodged on 21.06.2022 at 5.30 pm with the aforesaid allegations. In his submissions, the allegations are completely false, fabricated and baseless. The fact that the informant herself went to the village of this petitioner who is in relation her Mamera Devar and then stayed in the village on 17.06.2022 and established physical relationship with him are something which indicate that the allegation even if assume to be correct without admitting the same, it indicates that it was not a rape rather a consensual relationship.

Learned counsel further submits that the informant was herself married to the cousin brother of the petitioner and had five children, under these circumstances, her getting allured in the name of marriage is nothing but a false statement.



Learned counsel for the informant has opposed the prayer for bail of the petitioner and according to him the petitioner has indulged in establishing physical relationship with her on allurement of marrying her. The medical board who examined the informant has opined that there is no evidence of recent sexual assault.

Learned APP for the State has opposed the prayer for regular bail of the petitioner.

Having regard to the aforementioned facts and circumstances of the case, the fact that the informant is adult and married having five children and that the petitioner is related to her and as per her own statement she had gone to the village of the petitioner where she had stayed and then established physical relationship, in the nature of the case and circumstances in which the petitioner has already remained in custody since 22.06.2022, investigation against him is complete, he has otherwise no criminal antecedent and at this stage there is no submission that his release is likely to result in tampering with the evidence or interfering with the course of trial or that his presence cannot be secured in course of trial, this Court directs release of the petitioner above named on bail on furnishing bail bond of Rs.25,000/- (Rupees Twenty Five



Thousand Only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Begusarai in connection with Begusarai Town P.S. Case No.365/2022, subject to the conditions as laid down under Section 437(3) 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.

This application stands allowed.

(Rajeev Ranjan Prasad, J)

arvind/-

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

