

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4898 of 2023

Arising Out of PS. Case No.-491 Year-2022 Thana- HARSIDHI District- East Champaran

Abhishek Kumar Son Of Rajendra Bhagat @ Lola Bhagat Resident Of
Village - Mohabbat Chhapra (Mahmad Chhapra), Ward No.- 10, P.S.-
Turkauliya, District - East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rita Kumari Daughter of Rajendra Prasad R/o Village - Saraiya, Ward No.-
10, P.S.- Harsidhi, District - East Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar No.1, Advocate
For the Opposite Party/s : Mr. Jai Narain Thakur, Addl. Public Prosecutor

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 07-04-2023 Heard learned counsel for the petitioner and the

State.

Petitioner apprehends arrest in a case registered for
the offence punishable under sections 376 of the Indian Penal
Code.

As per the prosecution case, the petitioner regularly
visited the house of the informant and made physical
relationship with the informant. On 05.10.2022 at 10.00 Pm
again he came to the house of informant, in the meantime some
villagers saw them. Thereafter they were taken to Shiv Mandir
by the villagers where petitioner and informant solemnized
marriage and they became husband and wife. However, after



two hours of marriage petitioner fled away.

Learned counsel for the petitioner submits that the informant is a married lady and with her consent petitioner established physical relation and then marriage was performed. Both of them engaged in sexual activity for quite some time which cannot be said to be induced and involuntary. As such, allegation of inducement and commission of rape is not made out against the petitioner. Petitioner is a constable in Bihar Police. Petitioner has got no criminal antecedent.

Considering the aforesaid facts and circumstances of the case, in the event of arrest or surrender within six weeks from today, let the petitioner, as named above, be enlarged on bail on furnishing bail bond of Rs.10,000/-(ten thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Motihari in Harsidhi P.S. case no.491 of 2022 subject to the conditions laid down under section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Singh, J)

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