

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24083 of 2023

Arising Out of PS. Case No.-1 Year-2023 Thana- MAHILA P.S District- West Champaran

MANISH KUMAR Son of Late Dwarika Prasad R/V- Baswariya, Pipal
Chauk, PS - Bettiah Town, Dist- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Ms. Kumari Shubham, Advocate
	Ms. Vatsal Verma, Advocate
For the Opposite Party/s :	Mr. Rabindra Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 3 17-08-2023 1. Heard learned counsel for the petitioner Ms. Kumari Shubham and learned A.P.P. for the State.
2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 420, 376 and 506/34 of the Indian Penal Code.
3. Learned counsel for the petitioner submits that petitioner is a person with clean antecedent.
4. The informant alleges that petitioner is a resident of the same village and thus was known. On 08.04.2022, the petitioner took her to Kedar Guest House and forcefully established physical relation on pretext of marriage. She further alleges that thereafter for eight months the petitioner used to establish physical relation at Bagicha Restaurant. She next alleges that petitioner used to come to meet her in the night near



her house. It is also alleged that when she asked him to marry then the petitioner threatened to kill her and also threatened to make viral the obscene video. She further alleges that thereafter she disclosed about her relationship to the mother of the petitioner who assured that they will think about it. She next alleges that petitioner also came and met her parents and disclosed that they have only talking relationship and he has not done anything. She next alleges that now the petitioner, his brother and mother are threatening that question of marriage does not arise and they will make viral the video and photo on Whatsapp and Facebook.

5. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. It is further submitted that what is not disputed rather stands admitted is that both petitioner and the informant are adults. It is next submitted that two consenting adults came together on their own volition and entered into relationship rather physical. It is also submitted that it is the case of the petitioner that he was known to the informant and were friends and used to talk but never established any physical relationship, though the informant alleges that on pretext of marriage the physical relationship was established, though initially forcefully. Learned



counsel further submits that it absolutely does not stand to reason that how the informant believed initially that petitioner will marry her when she herself alleges that petitioner forcefully established physical relationship when they met for the first time. It is next submitted that if what the informant alleges is true then definitely she would have informed her family members or would have reported the case to the police at the first instance itself but as she alleges that thereafter also physical relation continued for eight months that in itself demonstrates that the relationship was consensual. It is also submitted that petitioner has his story while the informant has her, whether at the time of considering the anticipatory bail application, the allegation of the informant be considered sacrosanct and the defence of the petitioner not, especially when the injury report is not corroborating rape. It is further submitted that the informant herself in the FIR alleges that petitioner met her mother and disclosed that they have talking relationship and nothing further which amply demonstrates that petitioner right from the beginning is disputing the allegation. It is next submitted that even presuming what has been alleged is true without admitting then from the tenor of the allegation, it appears that two consenting adults came together, entered into relationship and



when the relationship soured, the present case came to be instituted implicating the family members of the petitioner which amply demonstrates that the informant intended to coerce the petitioner into submission by implicating his brother and mother. Learned counsel for the petitioner also relies on a judgment of the Hon'ble Supreme Court in the case of Dr. Dhruvaram Murkidhar Sonar Vs. The State of Maharashtra & Ors. in Cr. Appeal No. 1443 of 2018, wherein it has been held that the acknowledged consensual physical relationship between the parties would not constitute an offence under Section 376 of the Indian Penal Code. It is further submitted that the allegation of making the video viral on social media is ornamental in nature to give serious colour of the case as no videos or photos during the course of investigation transpired or was found on the social media.

6. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner.

7. Considering the submissions made by the learned counsel for the petitioner, 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 Bettiah Mahila P.S. Case No. 01 of 2023, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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