

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27390 of 2023

Arising Out of PS. Case No.-427 Year-2022 Thana- KOTWALI District- Munger

Mahboob Sarwar @ Md. Mahboob Sarwar S/O Kalim Sarwar Resident of village- Purabsarai Kamala Road, Azad Colony, P.S.- Kotwali, District- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Assi Parween D/O Md. Noor Alam Resident of village- Purabsarai Kamala Road, Azad Colony, P.S.- Kotwali, District- Munger.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar Singh, Adv.
For the Opposite Party/s	:	Mr. Suman Kumari Singh, APP
For the Informant/s	:	Mr. Rupesh Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 05-06-2023 Let the defect(s), if any, be removed within two weeks from today.

Heard learned counsel for the petitioner, learned counsel for the informant and learned A.P.P. for the State.

Learned counsel for the informant submits that he has already appeared through *Vakalatnama*.

The petitioner seeks regular bail in connection with Kotwali (Purabsarai) P.S. Case No. 427 of 2022 lodged under Section 376 of the I.P.C.

As per the prosecution case, the allegation of rape has been made against the petitioner, particularly, when both were developed physical relation with each other on the promise of

marriage and subsequently upon refusal from marriage, the informant tried to attempt suicide but saved by the family members.

Learned counsel for the petitioner submits that from the contents of the F.I.R., it is clear that the age of the victim is 20 years and the age of the petitioner is 21 years. Counsel for the petitioner further submits that from the F.I.R., it is also clear that both informant and accused are well known to each other since last five years and they were in intimate relationship with each other. Counsel submits that both petitioner and informant are major. Counsel further submits that allegation of attempt to suicide is there, therefore, case should also be lodged under Section 309 of the I.P.C. against the petitioner with reason best known to the police, only Section 376 of the I.P.C. has been added in this case. Counsel submits that the antecedent of the petitioner is clean and he is in custody since 31.01.2023.

Learned counsel for the State opposes the prayer for bail and submits that from the contents of the F.I.R., it transpires that alleged victim is of 20 years and petitioner is of 21 years and they are living in intimate relationship in which they have developed sexual relation with each other.

Learned counsel for the informant vehemently opposes the prayer for bail and submits that it is petitioner who made the life of the informant hell, on the promise to marry, he has developed physical relation with her, later on refused to marry, due to which informant has filed the present case.

In the present facts and circumstances of this case and the submissions made above, let the petitioner above named, be granted bail on furnishing bail bonds of Rs.30,000/- (Rupees Thirty thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Munger in connection with Kotwali P.S. Case No. 427 of 2022, subject to the conditions as laid down under Section 437(3) of Cr.P.C.

With this observation, the bail application stands allowed.

(Dr. Anshuman, J.)

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