

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26712 of 2022

Arising Out of PS. Case No.-303 Year-2021 Thana- DAGARUA District- Purnia

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Suman Kumar Malakar @ Sumit Malakar Son of Suresh Malakar R/o village
- Kohila, P.S.- Dagaruwa, District - Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Adv Dr. Bidhu Ranjan, Advocate Mr. Arvind Kumar, Advocate Mr. Kumar Rajdeep, Advocate
For the State	:	Mr. Uma Shankar Prasad Singh, APP
For the Informant	:	Mr. Pramod Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 04-01-2023 Heard learned senior counsel for the petitioner and learned
APP for the State as well as learned counsel for informant.

This Court would expect that the petitioner's counsel would honour his undertaking in the instant proceedings regarding supply of requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

Petitioner seeks bail in connection with Dagaruwa P.S. Case No. 303 of 2021 registered under Section 376, 379 and 34 of the Indian Penal Code.

The prosecution story is that the informant's daughter, aged about 18 years old, has submitted a written report that a neighbour (the petitioner) along with other accused persons has allured the victim for marriage with the instant petitioner. On 14.10.2021, it is



stated that on the eve of *Durga Puja*, she went with the petitioner; and on the allurements of solemnizing marriage, he established sexual relationship with the victim. She returned on 16.10.2021. Thereafter several attempts have been made to reconcile the matter; and upon failure of such reconciliation efforts, an F.I.R. has been lodged on 01.11.2021.

The learned senior counsel for the petitioner submits that the allegation in the F.I.R., along with *punchnama*, which forms part of the F.I.R., is indicative of consensual relationship between the alleged victim and the petitioner. She has stayed away for days, as per the F.I.R. itself, but no intimation has been given in this regard. The petitioner, having no criminal antecedents, has been implicated in this regard falsely. He is in custody since 24.02.2022.

The learned counsel for the informant as well as learned APP has submitted that victim has subsequently in her statement under Section 164 Cr.P.C also recorded that the petitioner making videos viral of their intimate relationship.

However, no such video has been produced along with the statement.

Considering the rival submissions, clean antecedents of petitioner, the nature of allegations and delay in lodging of the F.I.R., this Court is inclined to allow the petitioner's prayer for bail.

Let the petitioner above named be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) with two



sureties of the like amount each to the satisfaction of learned C.J.M. Purnea, in Dagaruwa P.S. Case No. 303 of 2021, subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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