

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33411 of 2023

Arising Out of PS. Case No.-326 Year-2022 Thana- WARISLIGANJ District- Nawada

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MOHAN KUMAR S/O LAKAN MAHTO Village- Baghibardiha Ps-
Varsaliganj, Dist- Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Shashank Kumar Singh
		Mr. Manish Kumar
		Ms.. Amrita Srivastava
For the State	:	Mr.Parmanand Kumar
For the informant	:	Mr. Dhirendra Singh

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

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| 3 | 30-08-2023 | <ol style="list-style-type: none">1. Heard learned Counsel for the petitioner, learned Counsel for the informant and learned Additional Public Prosecutor for the State.2. This application, for grant of anticipatory bail, arises out of Warsaliganj Police Station Case No. 326 of 2022, date 02.07.2022, disclosing offences punishable under Section 376-D of the Indian Penal Code.3. The prosecution case, as per the First Information Report, is that the petitioner allegedly introduced his brother-in-law (sala), co-accused Himanshu Kumar, to the informant and the brother-in-law of the petitioner developed intimate relationship with the informant, starting from October, 2016, who took objectionable video while the |
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informant was taking bath and taking advantage of the same, co-accused Himanshu Kumar sexually exploited the informant. It has also been alleged that co-accused Himanshu Kumar and the petitioner committed rape upon the informant five times in the night outside the village from 15.10.2016 to 26.01.2017. In the mean while, co-accused Himanshu Kumar took the informant to Biharsharif and forced her to sign on the marriage paper in the Court so that co-accused Himanshu Kumar can give the colour of marriage to the sexual exploitation of the informant.

4. Learned Counsel for the petitioner submits that the petitioner has falsely been implicated in this case and the allegation made against him in the First Information Report is based upon the concocted story. He further submits that as per the own narration of the story by the informant, she was having relationship with co-accused Himanshu Kumar since 2016 and First Information Report has been lodged after a lapse of about six years, in the year 2022. There was long consensual relationship between the informant and co-accused Himanshu Kumar. Referring to the supplementary affidavit, learned Counsel



submits that the informant's brother-in-law is the neighbour of the petitioner and she used to frequently visit her sister and the informant along with her relatives trapped co-accused Himanshu Kumar with intention to perform his marriage with the informant. He further submits that the informant has filed an application for maintenance in the Army Camp, Udhampur, Jammu, claiming herself to be the wife of co-accused Himamshu Kumar, which would be evident from Annexure 5. The co-accused Himanshu Kumar is working in the army as a constable. He further submits that the informant has also produced notarized marriage certificate, dated 03.12.2020 and a certificate, dated 28.09.2021, issued by the Sarpanch/Mukhiya. Accordingly, the submission is that there was long standing relationship between the informant and co-accused Himanshu Kumar and the petitioner has been implicated in this case only due to the fact that he happens to be the brother-in-law of co-accused Himanshu Kumar.

5. On the other hand, learned Counsel for the informant vehemently opposes the prayer for anticipatory bail and submits that the petitioner, along with his brother-in-law,



co-accused Himanshu Kumar, with an intention to blackmail the informant, took her objectionable video and sexually exploited her continuously. He further submits that co-accused Himanshu Kumar has been granted regular bail by a co-ordinate Bench of this Court, vide order, dated 22.06.2023, passed in Criminal Misc. No. 3566 of 2023, and as such, the petitioner also does not deserve privilege of anticipatory bail.

6. Regards being had to the submissions advanced on behalf of the parties and taking into consideration the fact that the informant has alleged that marriage was solemnized between her and co-accused Himanshu Kumar, she also claimed maintenance before the army officials at Udhampur, Jammu, for herself as wife of co-accused Himanshu Kumar, there appears to be long standing sexual relationship between the informant and co-accused Himanshu Kumar, the petitioner is the brother-in-law of co-accused Himanshu Kumar, who has been granted bail by this Court, I am inclined to grant the petitioner privilege of anticipatory bail.
7. This application is, accordingly, allowed.
8. Let the petitioner, above named, in the event of his arrest



or surrender before the Court below within a period of four weeks from today, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned 6th Additional Sessions Judge -cum- Special Judge, POCSO, Nawada, in connection with Warsaliganj Police Station Case No. 326 of 2022, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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