

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34105 of 2023

Arising Out of PS. Case No.-60 Year-2020 Thana- MAHILA P.S. District- Araria

MD. FIROZ ALAM S/O MOHIUDDIN R/O Village- Bhagwanpur ward no.
03, P.S- Jokihat, Distt.- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Rana, Advocate
For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 16-08-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 342, 376(3), 354(D) and 506 of the Indian Penal Code and Section 6 of the POCSO Act.

In compliance of the order dated 07.08.2023, the S.D.P.O and the Investigating Officer of the case are present.

Learned counsel for the petitioner submits that the petitioner is a person with clean antecedent.

The informant alleges that during Corona lockdown, she had gone to the shop of the petitioner to buy some articles, when petitioner forcibly confined her in the *godown* and raped her on point of knife and made objectionable video and then



assured her of marriage and on that pretext and under threat of making the video viral, again established physical relations 6-7 times, it is next alleged that again on 08.06.2020, the petitioner raped her, further alleges that thereafter till 10.06.2020 used to assure her of marriage and also threatened that she will be killed.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case, it is next submitted that from perusal of the allegation as alleged in the F.I.R., it would manifest that the informant initially alleges that she had gone to the shop of the petitioner where she was confined in the *godown* by him and raped on point of knife and some objectionable video of the occurrence was also made, but then it is submitted that the informant never instituted any case of rape after the occurrence as alleged. It is next submitted that thereafter the informant alleges that petitioner assured her that he will marry her and on the pretext of marrying and also under threat of making the video viral again established physical relations 6-7 times, it is next submitted that it absolutely does not stand to reason that as to how the petitioner on one hand was giving assurance of marriage and on the other hand was threatening to make the video viral and at the same time was



establishing physical relation, but then the informant never complained either to the police or to her family members, which amply demonstrates that petitioner and the informant were known to each other and the relationship was consensual and when the relationship soured, the present false case came to be instituted alleging that on 08.06.2020 again she was raped and till 10.06.2020, the petitioner was assuring her of marriage and was also threatening at the same time.

Learned counsel for the petitioner further submits that the allegation as alleged in the FIR does not inspire confidence and definitely it is a not a case of rape but of two consenting adults coming together, entering into relationship and when the relationship soured, the false case came to be instituted. Learned counsel next submits that it is the case of the informant that petitioner had promised to marry her and then established physical relations whereas the case of the petitioner is that he never made any promise to the informant that he will marry her nor made any objectionable videos nor ever threatened her, since they were known to each other, as such the relationship was established.

The learned counsel for the petitioner next submits that at this stage, it is difficult to believe that what the informant



alleges is sacrosanct and what the petitioner is submitting is not.

The S.D.P.O, who is present in the Court along with Investigating Officer very fairly submits that during the course of investigation, no any objectionable video was recovered or found made viral on internet.

The learned counsel for the petitioner, at this stage, submits that the petitioner will not abscond rather will co-operate in the investigation and will present himself as and when required by the Investigating Officer of the case for eliciting the truth and proving his innocence.

Learned A.P.P. for the State, Mr. Chandra Bhushan Prasad, opposes the prayer for anticipatory bail of the petitioner.

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 trial court 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 trial court where the case is pending/successor court in connection with Araria Mahila P.S. Case No. 60 of 2020 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.



However, it is made clear that in the event if the Investigating Officer of the case files an application before the learned Trial Court bringing to its notice that the petitioner despite giving assurance to this Court is not co-operating in the investigation or is not presenting himself as and when called for, the learned Trial Court shall be at liberty to cancel the bail bonds of the petitioner after recording reasons.

The order has been passed in presence of the SDPO and the Investigating Officer of the case.

The personal appearance of the SDPO and the Investigating Officer of the case is dispensed with.

Accordingly, the present anticipatory bail application stands allowed.

(Satyavrat Verma, J)

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