

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41199 of 2023**

Arising Out of PS. Case No.-57 Year-2022 Thana- MAHILA PS District- Darbhanga

MD. ARMAN S/O MD. MUMTAZ R/O Village- Muraitha, P.S- Jalley, Distt.-
Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Baidya Nath Prasad

For the Opposite Party/s : Mrs.Usha Kumari

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 19-07-2023 Learned counsel for the petitioner is permitted to remove defect (s), as pointed out by the office, if any, within a period of four weeks on resumption of physical mode.

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

The petitioner has preferred this application for grant of regular bail in connection with Mahila P.S. Case No. 57 of 2022 dated 19.8.2022 registered for the offence punishable u/s 313, 376, 506/34 of the Indian Penal Code and u/s 4 and 6 of the POCSO Act and u/s 3(i)(r)(s), 3(i)(s), 3(2)(v) of SC/ST Act.

As per the prosecution case, the petitioner had been committing rape on the informant for three years on the pretext



of marriage and she became pregnant which was aborted. When the informant went to the house of the petitioner, his parents abused the informant in the name of her caste and also threatened to kill her.

Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. There is general and omnibus allegation against the petitioner. Nothing incriminating material has been recovered from the conscious possession of the petitioner. Learned counsel has further submitted that the victim has already married to one Manoj Kumar prior to lodging of the present case. It is further submitted that the victim in her statement recorded under Section 164 of the Cr.P.C. has stated that the petitioner took her to Muzaffarpur where he put vermilion on her head and resided with her as husband and wife. No offence under the POCSO Act is made out against the petitioner. There is no statutory compliance of Section 53A and 164A of the Cr.P.C. The petitioner has not called abuses in the name of the caste of the victim. It is further submitted that there was no member of public present at the time of the incident. Hence, no offence u/s 4 and 6 of the ST and SC Act is made out against the petitioner. Learned counsel for the petitioner has placed reliance on the



judgment of the Apex Court in the case of **Mandar Deepak Pawar Vs. The State of Maharashtra & Anr.** passed in Cr. Appeal No(s). 442/2022; 27th July, 2022 in which the Hon'ble Supreme Court has held that “a distinction was made between a false promise to marriage which is given on understanding by the maker that it will be broken and a breach of promise which is made in good faith but subsequently not fulfilled”. The petitioner has got clean antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 31.3.2023.

Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner and submitted that the victim is a minor girl.

Considering the aforesaid facts and circumstances of the case as well as the period of custody, the petitioner above-named, is directed to be enlarged on bail on furnishing bail-bond of Rs.20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Court concerned, Darbhanga in connection with Mahila P.S. Case No. 57 of 2022 with the following condition :-

1. The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable



cause, the bail bonds of the petitioner are liable to be cancelled.

The application stands allowed.

(Chandra Prakash Singh, J)

Ajay Singh/-

U		T	
---	--	---	--

