

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41834 of 2023

Arising Out of PS. Case No.-97 Year-2023 Thana- KURSAILA District- Katihar

SAURABH KUMAR @ JUGNU S/O NISHIT RANJAN JAISWAL @
NISHI JAISWAL R/O VILLAGE- SIMRA, PS. TIKAPATTI, DIST.
PURNEA

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Jha
For the Opposite Party/s : Mr. Zainul Abedin

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 07-08-2023 1. Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. The petitioner apprehends his arrest in a case
registered for the offences punishable under Section 376 of the
Indian Penal Code.

3. The informant alleges that the petitioner
established physical relation with her on pretext of marriage, it
is next alleged that petitioner was friend of his brother-in-law
and came in contact with her in 2019, when she was studying in
TMBU, Bhagalpur, University, it is next alleged that on pretext
of marriage, he established physical relationship and the
relationship continued and the petitioner even used to call her to
Delhi, where he used to establish physical relation, it is next



alleged on 18.04.2022, the petitioner took her to a temple in Delhi and vermilion on her forehead and asked to keep it a secret, it is next alleged that she came to know that petitioner was getting married elsewhere on 15.05.2023, accordingly, she along with her father and villagers went to his house but they demanded Rs. 51 lacs by way of dowry and refused to marry the petitioner with her.

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

5. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case, it is next submitted that these days it has become a fashion to institute cases under Section 376 IPC alleging that the accused established physical relationship on the pretext of marriage, it is further submitted that two consenting adults, they come together and on their own sweet will, they enter into a relationship and at times physical but then the same, by no stretch of imagination, can be construed to mean that the physical relationship entered, with consent, amounted to rape later, it is further submitted that though the informant alleges that she came in contact with the petitioner who was friend of her brother-in-law in the year 2019, but then till 2022, i.e., till the date of institution of the FIR, she



could not decipher that was being cheated, it is next submitted that neither the petitioner nor the informant were interested in marrying each other, rather, they were having relationship, but when the petitioner came to be appointed as a Constable in Delhi Police, thereafter, the present FIR came to be instituted, it is next submitted that, in order to falsely implicate the petitioner, the informant also alleges that the petitioner used to call her at Delhi and used to establish physical relationship, it is thus submitted that it absolutely does not stand to reason as to why the informant on mere calling of the petitioner used to go to Delhi for establishing physical relationship. It is also submitted that falsity of the allegation would also manifest from the fact that the informant alleges that petitioner took her to a temple in Delhi and married her by putting vermilion on her forehead, but then the FIR does not even remotely suggest that in which temple the petitioner had taken her for getting married. It is next submitted that had the petitioner taken her to a temple for the purpose of marriage, then the informant must have disclosed the name of the temple but then that is not the case, it is further submitted that every physical relationship which consenting adults enter into on their own volition does not amount to rape, it is next submitted that the informant was aware that the



petitioner had qualified in the examination for being appointed as a Constable in Delhi Police before institution of the FIR, but this fact despite being known to the informant still she intentionally chose to omit the said part in the allegation merely for the reason that she did not want to give an impression that after the petitioner qualified as a Constable in Delhi Police, then the present FIR came to be instituted.

6. Learned A.P.P. for the State along with learned counsel for the informant opposes the anticipatory bail application but the learned counsel for the informant is not in a position to rebut the submission of the learned counsel for the petitioner that the relationship was consensual, the petitioner and the informant are consenting adults and the physical relationship entered, in between the two, was not forceful.

7. 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 Kursela P.S. Case



No. 97 of 2023 subject to the conditions as laid down under
Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

Harshpandey/-

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