

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42935 of 2022**

Arising Out of PS. Case No.-20 Year-2022 Thana- INARWA District- West Champaran

Birendra Mahato @ Virendra Mahto, S/o Rameshwar Mahato @ Ramashrey
Mahato, R/o village- Pidari, P.S.- Inarwa, District- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey, Advocate
For the Opposite Party/s : Mr.Ashok Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 18-01-2023 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks.

In the present case, the petitioner seeks bail in
connection with Inarwa P.S. Case No. 20 of 2022 registered for the
alleged offences under Sections 323, 341, 354B, 376, 504, 506 and
34 of Indian Penal Code.

As per prosecution case, the informant made a
complaint before the court of learned Chief Judicial Magistrate,
Bettaih, which was later on sent for registration of FIR and in that
complaint the complainant/informant submitted that the petitioner
repeatedly raped her and when the informant refused to continue
sexual relationship with him, the petitioner sexually assaulted the
informant.



The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The prosecution story is not believable and the FIR reflects the tacit consent of the informant. The relationship between the petitioner and the informant appears to be consensual even if the prosecution story is accepted to be true. The informant is a mature lady of aged about 37 years and she was already married. During investigation the statement of the husband of the victim lady was recorded and her husband stated about her infidelity and her relationship with the petitioner with whom she eloped leaving behind her two sons aged about 13 years and 15 years, respectively. The husband of the informant and other witness have also stated that no occurrence has taken place on 15.01.2022, as alleged in the FIR. Learned counsel further submits that the statement of the victim lady was recorded under Section 161 Cr.P.C. and she has stated about her love affair with the petitioner who used to bear her household expenses and when he stopped to bear her household expenses, dispute arose. The petitioner is in custody since 12.06.2022 and the charge-sheet has been submitted in this case. The petitioner is having clean antecedent.

Learned APP opposes the prayer for bail.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the



possibility of consensual relationship between the informant and the petitioner and further considering the clean antecedent of the petitioner along with his period of custody and submission of charge-sheet against him, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate-1st Class, Bettiah, West Champaran in connection with Inarwa P.S. Case No. 20 of 2022, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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