

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43536 of 2022

Arising Out of PS. Case No.-6 Year-2022 Thana- MAHILA PS District- Darbhanga

Md. Gulzar Ansari S/o Mubarak Ansari R/o village- Rajo, P.S.- Singhwara,
District- Darbhanga Petitioner/s

Versus

1.	The State of Bihar
2.	XXXXX

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sunil Kumar Karn, Adv.

For the Opposite Party/s : Mr. Ram Sevak Choudhary, APP.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

5 04-04-2023 Let the defects, if any, pointed out by the office be removed within three weeks from the date of this order, failing which the matter be listed again under the appropriate heading for necessary action.

Heard learned counsel for the petitioner and the learned APP for the State.

Petitioner seeks regular bail in connection with Mahila P.S. Case No. 06 of 2022 registered for the offences punishable under Sections 376, 354A, 313, 354B, 323 and 504/34 of the Indian Penal Code and Sections 4 and 6 of the POCSO Act.

As per the prosecution, the informant alleged that the petitioner established sexual relationship with her several times on the pretext of false marriage and later on, the petitioner denied to marry her.

The main submissions advanced by petitioner's counsel are that the FIR was lodged four months after the complaint made by victim's mother to petitioner's family members and in the statement recorded under Section 164 of Cr.P.C., the victim accepted her love affair with this petitioner and the petitioner got married to the victim before lodging of the FIR and in this regard, the information received from the concerned authority regarding the said matrimonial relationship, has been filed as Annexure-2 which confirms the matrimonial relationship between the petitioner and the victim and the said information was provided on 15.01.2022. Further submission is that the victim was medically examined with respect to determination of her age regarding which X-Ray of Pelvis was conducted in which complete fusion of the *epiphysis* of the *iliac crest* on both sides was found by the Doctor concerned, which shows that she was between 20 and 22 years at the time of medical examination as the said fusion starts from the age of 19 years as per the medical jurisprudence and keeping in mind the said fact, the medical expert opined the victim's age to be between 20 and 22 years. Further submission is that the petitioner is a young person and his age is about 20 years and he himself surrendered before the Court below and his trial has started.

Learned counsel for the informant has vehemently opposed the bail prayer and submitted that as per the victim's statement recorded under Section 164 of Cr.P.C. before the Judicial Magistrate the petitioner forcefully established physical relationship with her and after the marriage, he started torturing the victim.

Learned APP appearing for the State has also opposed the bail prayer.

Considering the above submissions and mainly the facts that the petitioner is 20 years old as per his age disclosed in the petition and he himself surrendered before the Court below and his trial has started and as per the statement of the victim, there was love affair between the petitioner and the victim, in my opinion it is a fit case for bail to the petitioner. Accordingly, let the petitioner named-above be enlarged on bail on furnishing bail bond of Rs.10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of the Court concerned in connection with Mahila P.S. Case No. 06 of 2022.

(Shailendra Singh, J)

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