

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46630 of 2023

Arising Out of PS. Case No.-649 Year-2023 Thana- NAWADA District- Nawada

Md. Arman @ Arman Ansari S/O Md. Safique @ Safique Ansari @ Patel
Ansari Resident Of Mohalla Millat Colony, Bhadauni, P.S. Nawada Town,
District- Nawada

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Adv. with Ms. Vaishnavi Singh, Adv. and Mr. Ritwik Thakur, Adv.
For the Informant	:	Mr. Sheo Kumar Prasad, Adv.
For the State	:	Mr. Choubey Jawahar, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 06-09-2023 Heard Mr. Ajay Kumar Thakur, learned counsel appearing on behalf of the petitioner and Mr. Choubey Jawahar, learned Additional Public Prosecutor for the State. The informant is represented by Mr. Sheo Kumar Prasad, learned counsel.

2. The petitioner apprehends his arrest in connection with Nawada P.S. Case No. 649 of 2023, registered for the offences punishable under Section 376 of the Indian Penal Code.

3. Allegedly the victim has been in love affair with the petitioner for the last four years and on the pretext of marriage he established physical relationship with her. It is further alleged



that on 26.04.2023, the petitioner called the victim at his house and induced her to make physical relation, and when the same was resisted and she insisted for marriage the petitioner assaulted the victim and ousted her from his house.

4. Learned counsel appearing on behalf of the petitioner while drawing the attention of this Court to the narrations made in the FIR submits that admittedly both the petitioner as well as the victim are major and *prima facie* relationship appears to be consensual and moreover, they have been in relationship for the last four years, as such the entire allegation of commission of rape is not at all established. He further drew the attention to the copy of the passport as contained in Annexure-2, duly issued in favour of the petitioner and the corresponding statement in paragraph-9 of the petition that since January 2017 till 15.04.2023 he hardly spent six months in India and as such on this account alone the allegation of continuous physical relationship falls to the ground. He also submits that the Hon'ble Supreme Court in catena of judgment held that voluntarily establishment of physical relationship with persons having attained majority, on the pretext of marriage will not constitute an offence of rape and reliance has also been made on various judgments, including, ***Sonu @ Subhash Vrs.***



State of U.P. (AIR 2021 SC 1405); Maheshwar Tigga Vrs. State of Jharkhand (2020) 10 SCC 108 and Pramod Suryabhan Pawar Vrs. State of Maharastra, (2019) 9 SCC 608. He lastly submits that the petitioner is a man of fair antecedent and he undertakes that he will fully cooperate in the investigation or in the proceeding of the court.

5. On the other hand, learned counsel for the informant and the State vehemently oppose the bail application and submit that the specific allegation has been levelled against the petitioner that on the pretext of marriage he exploited the victim physically and mentally and as such he does not deserve any sympathy of this Court. At last, learned counsel for the informant submits that the victim is still ready to solemnize the marriage with the petitioner.

6. Regard being had to the submissions made on behalf of the parties and considering the continuous consensual relationship between the parties and the fact that both the petitioner and the victim are major, coupled with fair antecedent, apart from the mandate of the Hon'ble Apex Court, let the petitioner abovenamed be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this



order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Nawada in connection with Nawada P.S. Case No. 649 of 2023, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

Anjani/-

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

