

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46530 of 2022

Arising Out of PS. Case No.-7 Year-2022 Thana- MAHILA PS District- Jehanabad

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AMARNATH SHARMA @ RAKESH KUMAR @ JAGAN SON OF
RAMJANAM MISTRI R/O VILLAGE- ANUAN, P.S.- BANSHI, DISTT.-
ARWAL – 804419

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Pintu Kumar Patel, Advocate

For the Opposite Party/s : Mr.Upendra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

3 08-02-2023 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner apprehends his arrest in connection with Mahila P.S. Arwal Case No. 07 of 2022 for the offence registered under Sections 341, 323, 498A, 376, 504 and 506/34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act.

As per the Prosecution story, the informant, Priti Kumari alleged that she solemnized marriage with the petitioner, Amarnath Kumar @ Rakesh Kumar @ Jagan on 15.11.2019 at Lal Mandir near Hospital More, Jehanabad. However, the petitioner wanted the marriage to be kept secret till his elder sister gets married. She was further taken to her in-laws house where she met with the father-in-law, mother-in-law



and other family members. Further, despite her protest, he forcibly prevailed upon her and sexually exploited her at Ram Raj Rest Hotel as also the Hotel Raj Darbar situated in Jehanabad. He also forced upon her when she visited him at Patna. The further allegation is that despite exploiting her sexually number of times at different places, he finally demanded dowry and a four wheeler and also used abusive words. As he was unable to fulfill his demand, the present FIR has been lodged.

Learned counsel for the petitioner submits that he has been falsely implicated in this case as he serving as a Sub Inspector in Bihar Police Department. Further, the lady is a Constable in Police service and knows very well the impact of allegation under Section 376 of the Indian Penal Code and as such deliberately the same has been inserted in the FIR.

The further submission is that the fact narrated by the lady that the marriage took place in Lal Mandir, Jehanabad in that background, she being wife section 376 of the IPC will not come into picture and further Section 498(A) of the Dowry Prohibition Act and 376 of the Indian Penal Code cannot run together.

With the help of supplementary affidavit, the further



submission is that he was posted at Kurtha Police Station in 2019 and as per the direction of the SHO, Kurtha Police Station, he used to take training from the informant, Prity Kumari who was a Writing Constable in the said police station.

He remained there for one month after which he was relieved for police line, Rajgir where he continued for two years uptill 2021 whereafter he joined as Junior Sub-Inspector of police, Dinara police Station, Rohtas in August 2021. The further submission of the learned counsel for the petitioner is that the allegation is of 2019 whereas the FIR comes two years later and during the period she says that the informant visited her in-laws. Actually at that time & date, she was working and a certificate to this effect has been brought as Annexure-1 series to the supplementary affidavit. The further submission is that the informant being a Police Constable is using her clout to implicate the petitioner.

Per contra, with the help of counter affidavit, learned counsel for the informant has submitted that contrary to the submission put forward by the learned counsel for the petitioner, she was a studious person, got rank in the Intermediate Examination in 2009 as also in M.A. (Geography) Examination held by Nalanda Open University, Patna, joined as



a Constable.

The further submission is that they solemnized marriage in 2019 whereafter the petitioner although decided not to disclose their marriage till his sister gets married, sexually exploited her at several places and in the process, they lived in Maharani Hotel as husband and wife between 18.03.2020 to 20.03.2020 followed by another stay at Hotel Raj Darbar, Jehanabad and Ram Raj Rest House Hotel, Jehanabad. The further submission is that she complained to all the concerned Police Officer regarding the same and left with no option, the present FIR was lodged.

The co-ordinate Bench of this Court had earlier called for the case diary which is available on record and has been perused by this Court.

A perusal of the same shows that the petitioner along with lady stayed at Hotel Raj Darbar, Jehanabad named by the informant where he filled the register showing the informant as his sister. Further, he also stayed at Ram Raj Rest House Hotel, Jehanabad where again she was shown as his sister.

Confronted with the said document available on record, learned counsel for the petitioner did not had any answer to it.



Further, a perusal of paragraph-48 of the case diary shows that the petitioner talked with the lady by his phone altogether 5384 times while from another number, he talked 301 times. There is also other phone numbers on record which is that of the sister of the petitioner with whom the lady talked 17 times while with another sister of the petitioner, she talked 21 times.

All the aforesaid documents on record along with certificate given by the Ram Raj Rest House marriage/ community hall dated 09.05.2022 which is again part of the case diary shows that the petitioner and the lady were in the said rest house between 23.12.2019 to 24.12.2019, again from 31.01.2020 to 01.02.2020 and lastly from, 09.03.2022 to 10.03.2022

The aforesaid facts/documents clearly points finger towards the petitioner and he cannot exonerate from the allegations that has come in the FIR. Certainly this is not a fit case for extending privilege of anticipatory bail which is accordingly, rejected.

(Rajiv Roy, J)

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