

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55279 of 2023

Arising Out of PS. Case No.-44 Year-2020 Thana- KAMTAUL District- Darbhanga

Vikash Jha @ Vikash Kumar Jha, Male, aged about 22 Yrs, S/O Sunil Jha @ Sunil Kumar Jha R/O Village- Shrikhandi Bhitha, P.S- Sursand (BHITHA More O.P), Distt.- Sitamarhi.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Iqbal Asif Niazi, Advocate

For the Opposite Party/s : Mr. Uday Pratap Singh, APP

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

2 30-08-2023 Heard learned counsel for the petitioner and learned A.P.P. for the State.

2. The petitioner seeks bail in connection with Kamtaul P.S. Case No. 44 of 2020 dated 24.02.2020, instituted for the offences punishable under Sections 354(D), 376, 504, 506/34 of the I.P.C. and Section 65, 67 of the I.T. Act.

3. The prosecution case, in brief, is that the informant was working as receptionist in Chanakya Hotel Management College, Darbhanga, where the petitioner was a student and they become friends. It is alleged that the petitioner, Vikash Jha invited the informant at a place in Darbhanga where he sexually exploited her and clicked her photographs. Thereafter, the petitioner started blackmailing and abusing her on phone after



consuming liquor. As per the F.I.R., the petitioner used to talk with her on the mobile due to which, she left the job and started living at home. It is further alleged that from the last three months, the accused petitioner was again trying to call her and forcibly called her to Raipur and when she refused he threatened her that if she would not come at the said place, he would make her photographs viral. The said incident was disclosed to the family members of the informant.

4. Learned counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in this case. Due to refusal of marriage with the informant, the said case was lodged by the informant. It is further submitted that in the F.I.R., it is mentioned that the occurrence took place in the year 2017, but the F.I.R. was lodged on 24.02.2020 after delay of three years without giving any explanation. At the time of occurrence, the informant was major but the petitioner was younger to the informant and the informant had deep affection with the petitioner. The petitioner was aged about 17 years at that time and he did not take this issue very seriously. He was a student of DHM (Diploma in Hotel Management, Catering Technology & Tourism) from the said college for the session 2017-2018 and thereafter he went outside the State of Bihar for



different training and job. It is further submitted that the statement of the informant-victim was recorded under Section 164 of Cr.P.C., wherein, she accepted that she was in relationship with the petitioner. It is also submitted that the victim girl herself refused for her medical examination. During the course of investigation, the police could not obtain any objectionable photographs of the informant which is said to be viral on social media. Learned counsel for the petitioner relied upon two decisions of the Hon'ble Supreme Court in case of *Ansaar Mohammad Vs. The State of Rajasthan & Anr. in Cr. Appeal No. 962 of 2022* & *Mandar Deepak Pawar Vs. The State of Maharashtra & Anr. in Cr. Appeal No. 442 of 2022*. In the case of **Mandar Deepak Pawar (supra)**, the Hon'ble Supreme Court has referred the judgment in the case of **Pramod Surabhan Pawan Vs. State of Maharashtra and another [(2019) 9 SCC 608]**, wherein it is observed that where in the factual scenario where complainant was aware that there existed obstacles in marrying the accused and still continued to engage in sexual relations, the Supreme Court quashed the F.I.R. A distinction was made between a false promise to marriage which is given on understanding by the maker that it will be broken and a breach of promise which is made in good faith but



subsequently not fulfilled. Lastly, it has been submitted that the petitioner is in custody since 31.03.2023 have clean antecedents and charge-sheet has been submitted in the case.

5. Learned A.P.P. has opposed the prayer for bail of the petitioner.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail upon furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Darbhanga in connection with Kamtaul P.S. Case No. 44 of 2020.

7. The application stands allowed.

(Khatim Reza, J)

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