

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58965 of 2022

Arising Out of PS. Case No.-78 Year-2020 Thana- PATAHI District- East Champaran

VISHENDRA SHARMA @ VISHENDRA THAKUR S/O JATAHU
THAKUR Resident of village and P.O.- Padumker, P.S.- Patahi, District- East
Champaran at Motihari.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dhananjay Kumar Singh
For the Opposite Party/s : Mr.Upendra Kumar

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 07-02-2023 Heard the learned counsel for the petitioner
and the learned APP for the State.

The petitioner seeks regular bail in connection with Patahi P.S. Case No. 78/2020, registered for the offence punishable under Sections 341, 323, 376, 504, 379/34 of the Indian Penal Code.

The allegation is regarding the petitioner having allured the victim girl and on the pretext of marriage, he is alleged to have established physical relationship with the victim girl.

The learned counsel for the petitioner has submitted that the petitioner is innocent, he has



been falsely implicated in the present case, he is having a clean antecedent and he is languishing in custody since 31.3.2022. The learned counsel for the petitioner has further submitted that the victim girl is a major and the act in question is purely consensual in nature, hence, the petitioner cannot be saddled with any criminal liability. Lastly, it is submitted that at best the present case can be said to be a case of consensual sex between both the parties who are adults and are capable of exercising their independent prudent mind as to what is right and what is wrong. The learned counsel for the petitioner has referred to a judgment rendered by the Hon'ble Apex Court in the case of **Dr. Dhruvaram Murlidhar Sonar v. State of Maharashtra and others** reported in **2018 SCC Online SC 3100**.

Per contra, the learned APP for the State has though vehemently opposed the prayer for bail, but has not denied that the victim girl is major



and she might have had a consensual relationship with the petitioner, nonetheless, it is submitted that the allegation levelled by the informant i.e. the victim girl, who has also supported her case, in her statement made under Section 164 Cr.P.C., before the learned Magistrate, is that the petitioner had lured her into entering into a physical relationship with him on the pretext of marriage.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the materials available on record as also considering those available in the case diary, this Court finds that possibility of the act in question, being consensual on account of both the petitioner and the victim girl being adults, cannot be ruled out, hence, I deem it fit and proper to grant benefit of doubt to the petitioner for the purposes of grant of bail. Under the circumstances, the petitioner is admitted to the privilege of bail.



Accordingly, the above named petitioner is directed to be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned CJM, East Champaran at Motihari in connection with Patahi P.S. Case No. 78 of 2020.

(Mohit Kumar Shah, J)

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