

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65605 of 2022

Arising Out of PS. Case No.-47 Year-2018 Thana- MAHILA P.S. District- Araria

MUMTAJ @ MOMTAJ S/O MD. SHAFI R/v- Dumariya, P.S.- Raniganj,
District- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mrigendra Kumar, Advocate
For the Opposite Party/s : Mrs.Gulnar Begum, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 11-04-2023 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner apprehends his arrest in connection with Araria (Mahila) P.S. Case No. 47 of 2018 for the offence registered under sections 376/34 of the Indian Penal Code lodged on 12.05.2018 by the informant, Arshadi Khatoon.

As per the FIR, the lady alleged that she was widow having two children doing work in local ‘*Madarsa*’ where she met one Sahnwaj Hussain and on pretext of marriage was sexually assaulted. . The further allegation is/was that when she became pregnant, Sahnwaj Hussain got the same terminated by administering medicines.

A *panchayati* was convened in which it has been alleged that this petitioner who happens to be brother of



Sahnwaj Hussain promised solemnization of marriage but the same was refused by the co-accused and demanded Rs. 2 lakhs as dowry which led to the present case.

Learned counsel for the petitioner submits that the main allegation is against Sahnwaj Hussain and so far as this petitioner is concerned, his role has only that he came forward and promised that Sahnwaj Hussain will marry her. As Sahnwaj Hussain refused to get the marriage solemnized, he has been implicated in the matter.

Learned APP for the State, on the other hand, submits that the matter is of 2018 and for five years the petitioner chose not to knock the doors of the Court and in that background, the prayer for anticipatory bail has been opposed.

Although, this Court finds *prima facie* case against the accused, Sahnwaj Hussain and so far as the role of petitioner is concerned, he only promised that the marriage will be solemnized in view of the fact that the matter is of 2018, it is advisable that he surrenders before the Court and seek bail.

The anticipatory bail petition is rejected.

In case, the petitioner surrenders before the learned Court below and seek bail within four weeks from today, the Court will take into account the factors as also the accusation



that has come in the FIR and disposed of the petition on the same day on its own merit without being prejudiced by either any of the observation made herein and/or the delay that happened in surrendering and/or seeking bail.

(Rajiv Roy, J)

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