

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69802 of 2023

Arising Out of PS. Case No.-64 Year-2021 Thana- MAHILA P.S. District- Araria

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Saddam Hussain @ Md. Saddam Hussain @ Md. Saddam Hossain, Son of
Md. Abbas Alam @ Md. Abbas Resident of Bagdhara, Ward No.- 9, P.S.-
Jokihat, District - Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Rajesh Kr. Singh, Sr. Advocate
		Mr. Ranjeet Choubey, Advocate
For the State	:	Mr. Syed Ehteshamuddin, APP
For the informant	:	Mr. Vikram Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 06-11-2023 Heard learned counsel for the petitioner and learned
APP for the State as well as learned counsel for the informant.

2. In the present case, the petitioner seeks bail in connection with Araria Mahila P.S. Case No. 64 of 2021 registered on 04.06.2021 for the alleged offences under Sections 376 and 506/34 of the Indian Penal Code.

3. As per prosecution case, informant came into contact with the petitioner in the year 2009 while she was studying and staying in a girl hostel. Allegation against the petitioner is that he gave inducement of marriage to the informant and established physical relationship with her. When the informant insisted for solemnization of marriage then the informant sent his brother and brother-in-law to the house of the petitioner and thereafter the petitioner stopped talking to the informant and the family member



of the petitioner started demanding Rs. 10,00,000/- for solemnization of marriage of the petitioner with the informant.

4. Learned senior counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The petitioner and informant are major and whatever has happened was at the instance of both the parties and no case under Section 376 of IPC is made out from the facts of the case. It was a consensual relationship between two adults and at no point of time there was inducement of false marriage. On this aspect, learned counsel relied on the two decisions of Hon'ble Apex Court i.e., *Deelip Singh @ Dilip Kumar Vs. State of Bihar*, reported in *(2005) 1 SCC 88* and *Uday vs. State of Karnataka*, reported in *(2003) 4 SCC 46*. The petitioner is in custody since 23.08.2023 and charge sheet has been submitted. The petitioner is having clean antecedent.

5. Learned APP as well as learned counsel for the informant vehemently oppose the submission made on behalf of the petitioner. Learned counsel for the informant submits that if the consensual relationship was established on the promise of the petitioner and that promise was not honoured then act of the petitioner would come under the category of rape.

6. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the age



of the petitioner and long consensual relationship between both the parties and further considering the clean antecedent of the petitioner along with his period of custody and submission of charge-sheet, the petitioner above named is directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-V, Araria/concerned court in connection with Araria Mahila P.S. Case No. 64 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bonds of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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