

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4237 of 2022**

Arising Out of PS. Case No.-230 Year-2022 Thana- LAUKAHA District- Madhubani

SHIVAM KUMAR @ SHIVAM KUMAR YADAV Son of Birendra Kumar
Yadav Resident of village- Usarahi, P.S.- Devdha, District- Madhubani

... .. Appellant/s

Versus

1. The State of Bihar
2. Lalita Kumari D/O Shibhu Paswan Resident of Village- Nahari, P.S.-
Loukaha, District- Madhubani

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Krishna Pd. Singh, Sr. Adv.
For the State	:	Mr. Gagan Deo Yadav, APP.
For the Respondent No.2:	:	Mr. Ravi Prakash, Adv.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 14-03-2023 Learned senior counsel Mr. Krishna Pd. Singh
appearing for the appellant and learned APP Mr. Gagan Deo
Yadav appearing for the State are present and they are heard in
respect of the prayer for bail made by the appellant in the memo
of appeal.

The instant appeal has been filed against the order
dated 18.10.2022 passed by the trial Court in connection with
G.R. No. 94/2022 arising out of Loukaha P.S. Case No.
230/2022 registered for the offences under Sections 376 and
420/34 of the Indian Penal Code and Sections 3(1)(r),(w)(i) and
3(2)(va) of SC/ST Act whereby and whereunder the appellant's
prayer for bail has been rejected.

In respect of the prayer for bail made in the memo of appeal, it is submitted by learned senior counsel for the appellant that the appellant has fair and clean antecedent and as per the facts of the FIR, it is clearly evident that the informant, who is a twenty-six years old lady was a consenting party to the alleged physical relationship between her and the appellant and the said relationship remained for five years though, the FIR was registered under Sections 376 and 420/34 of the Indian Penal Code and Sections 3(1)(r),(w)(i) and 3(2)(va) of the SC/ST Act but after the investigation, the police submitted the chargesheet under Sections 420 and 493 of the Indian Penal Code and Sections 3(1)(r),(w)(i) and 3(2)(va) of the SC/ST Act and the appellant has been languishing in jail since 30.08.2022 and he voluntarily surrendered before the trial Court. Further submission is that the informant has remained *Sarpanch* of the concerned panchayat for two years and she had got two Aadhar cards issued with different dates of her birth, which were used by her to get a government job and this shows that the informant is a fraud lady and it cannot be presumed that such an educated and political lady can be cheated by anybody by establishing physical relationship with her on the pretext of marriage.

Learned counsel for the respondent No. 2 has

vehemently opposed the bail prayer and submitted that the appellant sexually exploited the respondent No. 2 for five years and destroyed her social life hence, he does not deserve to the privilege of bail and the order impugned has been rightly passed.

Heard both the sides and perused the order impugned and the FIR.

Admittedly, the respondent No. 2, who is stated to be twenty-six years old lady as per the FIR, was in relationship with the appellant and that relationship remained for five years, though as per the allegation, the appellant established sexual relationship with her on the pretext to marry her but one thing is quite clear that during the said long relationship, the respondent No. 2 did not raise any objection which shows that in the alleged physical relationship, she was a consenting party and the appellant has been languishing in jail since 30.08.2022 and as per the statement made in para 10 of the memo of appeal, the informant has remained *Sarpanch* of the concerned panchayat which shows that she is a politically active and educated lady and even then she established the alleged relationship with this appellant for a long period before marriage and the investigation has been completed against the appellant. Considering all these

facts, the appellant deserves to the privilege of bail. Accordingly, the instant appeal stands allowed and the order impugned stands set aside and the appellant is directed to be released on bail on furnishing bail bond of Rs. 10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-cum-Special Judge-I, Madhubani in Connection with G.R. No. 94/2022 arising out of Loukaha P.S. Case No. 230/2022.

(Shailendra Singh, J)

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