

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76629 of 2023

Arising Out of PS. Case No.-52 Year-2023 Thana- RAUTA District- Purnia

MAJID @ MD. MAJID ALAM S/O JAMIL AKHTAR R/O KAMALSARI,
P.S- RAUTA, DISTT.- PURNIA.

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dr. Bidhu Ranjan

For the Opposite Party/s : Mr.Ajay Kumar Jha

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 20-12-2023 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of three weeks from today.

2. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

3. The petitioner is apprehending his arrest in connection with Rauta P.S. Case No. 52 of 2023 dated 10.04.2023 registered for the offences punishable under Sections 376 and 313 read with 34 of the Indian Penal Code and Sections 3 and 4 of the POCSO Act.

4. As per the prosecution case, the petitioner is alleged to have committed rape on the minor daughter of the informant on the point of knife and she became unconscious.



When the informant came at the house, he found his daughter in naked condition lying unconscious. Thereafter, upon the pressure of *panches* the co-accused persons assured the informant of the marriage of the victim with the petitioner and in the meantime, the victim got pregnant. It is further alleged that the accused persons forcibly got the pregnancy of the victim terminated by administering her medicine.

5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case on account of land dispute. Learned counsel has submitted that the doctor has assessed the age of the victim as more than 20 years. The victim is a major woman who knows the consequence of the act of the petitioner. They chose to have physical relationship of their own will. The victim has stated in para 41 of the case diary that she had gone to Ludhiyana with the petitioner in 2021. After returning the victim and the petitioner lived in a hotel and solemnized marriage with the petitioner in the court. Learned counsel for the petitioner placed reliance on the judgment in the case of **Mandar Deepak Pawar Vs. State of Maharashtra & Anr. (Criminal Appeal No. 442 of 2022)** in which "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". The petitioner has no



criminal antecedent as stated in para 3 of the bail petition.

6. Learned A.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioner by submitting that the victim in her statement recorded u/s 164 of the Cr.P.C has stated the prosecution story.

7. Considering the aforesaid facts and circumstances of the case, let the above named petitioner, in the event of his arrest/surrender within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned court concerned, Purnia in connection with Rauta P.S. Case No. 52 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with further condition:-

(i). The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bond of the petitioner is liable to be cancelled.

8. The application stands allowed.

(Chandra Prakash Singh, J)

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