

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76681 of 2023

Arising Out of PS. Case No.-511 Year-2018 Thana- KANTI District- Muzaffarpur

Vishwanath Sah @ Vishvnath S/O Late Sogarath Sah R/O Vill - Bharwari,
P.S. - Belsand, Distt. - Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Jha, Advocate

For the Opposite Party/s : Mr. Sharda Kumari, APP

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA

ORAL ORDER

2 29-11-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner apprehends arrest in connection with Kanti P.S. Case No. 511 of 2018 dated 25.08.2018 instituted for the offence punishable under Sections 376, 420, 406, 323, 504, 506 of the Indian Penal Code.

3. The prosecution case, in short, is that the petitioner was in relationship with the informant since 2017 and he tried to persuade her to marry with him. On 10.02.2018, the petitioner got the signature of the informant on two plain papers and got the marriage certificate from Muzaffarpur Civil Court. Thereafter the petitioner and the informant used to live as a husband-wife at the house of his sister. While searching the informant, her parents and others reached there wherefrom they along with the informant and



the petitioner went to the house of the petitioner. Thereafter, the date of 11.05.2018 was fixed for marriage between the informant and petitioner as per Hindu rites. Thereafter the informant along with her parents came to her parental home. On 29.04.2018, the mother, brother, sister and *Bahnoi* of the petitioner demanded Rs. 2,00,000/-, one Pulsar motorcycle and a gold chain as dowry from the parents of the informant. On non-fulfilment of the same, they backed out from the said proposed marriage between the petitioner and the informant and abused her.

4. Learned counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in this case. It is further submitted that it is the admitted case of the informant that she was in relationship with the petitioner for one and a half year. Learned counsel for the petitioner submits that the victim is major girl as she has disclosed her age to be 18 years. The petitioner gave proposal of marriage and taken several snaps. On 10.02.2018, the informant was taken to court campus at Muzaffarpur and her signature was taken on two plain paper and marriage certificate was prepared. Thereafter she was taken to a temple and the petitioner put vermilion which was witnessed by two person. Thereafter the petitioner kept her as a wife and established physical relation. Learned counsel for the petitioner submits that the informant eloped with the petitioner in the year 2017 and visited several places as mentioned in the F.I.R. and



being major, consensual relation was established and thereafter it has been alleged that there was demand of dowry. Learned counsel for the petitioner submits that nothing has been annexed with regard to performing of marriage. Learned counsel for the petitioner submits that in view of the law laid down by the Hon'ble Supreme Court, no offence under Section 376 of the Indian Penal Code is made out as the informant is in consensual relation with the petitioner. Lastly, it has been submitted that petitioner has no criminal antecedents.

5. Learned A.P.P. has opposed the prayer for anticipatory bail of the petitioner.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest / surrender of the petitioner within a period of six weeks from today, in connection with Kanti P.S. Case No. 511 of 2018 he will be released on anticipatory bail upon furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Court No. 6, Muzaffarpur subject to condition as laid down under Section 438(2) of the Cr.P.C.

(Khatim Reza, J)

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