

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79224 of 2023

Arising Out of PS. Case No.-42 Year-2023 Thana- RANIGANJ District- Araria

Shashi Kumar S/O Vishwanath Prasad @ Vishwanath Mandal Mohalla- Koshi
Colony Chowk, Raniganj, Ward No. 3, Ps. Raniganj, Dist. Araria

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Singh

For the Opposite Party/s : Mr.Shantanu Kumar

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 13-12-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in a case registered for the offence punishable under Section 376 of the Indian Penal Code.

3. Allegation against the petitioner is that he made physical relation with the informant on the pretext of marriage.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. He submits that the informant is major, she had love affairs with the accused since 4 years and she got registered this false case on 23.01.2023 when the petitioner solemnized the marriage with another lady. He submits that there is no allegation of forceful physical relation with the informant rather she alleged about consensual physical relationship with the petitioner as per her own wish and desire. Hence, Section 376 of the IPC. is not applicable in the present case. Learned counsel for the petitioner in buttress of his submission relies upon a



order passed in the case of **Ansaar Mohammad Vs. The State of Rajasthan & Anr. (Criminal Appeal No. 962 of 2022 @ SLP (CRL) No. 5326 of 2022)** in which the Hon'ble Court has been pleased to held that if the relationship is not working out, the same cannot be a ground for lodging an FIR for the offence under Section 376 IPC. He further submits that petitioner has no criminal antecedent as stated in para-3 of the bail application.

5. Learned APP for the State opposes the prayer for bail.

6. Considering the facts and circumstances of the case, let the above named petitioner in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be enlarged on bail on furnishing bail bond of Rs.25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Raniganj P.S. Case No. 42 of 2023, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

(Anjani Kumar Sharan, J)

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